Draft Legislation to Amend the Excise Tax Act (GST) and Related Statutes

Issued by
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DRAFT LEGISLATION TO AMEND THE EXCISE TAX ACT AND RELATED STATUTES

PART I

EXCISE TAX ACT

1. Subsection 59(2) of the *Excise Tax Act* is repealed and the following substituted therefor:

Delegation of powers

(2) The Minister may authorize a designated officer or officer of a designated class of officers to exercise powers or perform duties of the Minister, including judicial or quasi-judicial powers or duties, under this Act.

2. (1) Section 68.2 of the said Act is renumbered as subsection 68.2(1) and is further amended by adding thereto the following subsection:

Application of anti-avoidance rule

(2) Section 274 applies, with such modifications as the circumstances require, to any transaction

(*a*) that is a sale of goods that would give rise to the application of, or is the basis of an application under, subsection (1), and

(*b*) that takes place after December 17, 1990 and before 1991,

and for that purpose, every reference in that section to "an assessment, a reassessment or an additional assessment" shall be read as a reference to "an assessment, a reassessment, an additional assessment, a determination or a redetermination".

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

3. (1) The said Act is further amended by adding thereto, immediately after section 70 thereof, the following section:

Definitions

70.1 (1) In this section,

"adjustment"
« redressement »

"adjustment" to the sale price of goods means the giving of a discount, allowance, rebate or other amount as a reduction in the sale price;

"other enactment"
« autre texte »

"other enactment" means

(*a*) a provision of an Act of Parliament, other than this Act, enacted before 1991, or

(*b*) a provision of a regulation or order enacted under an Act of Parliament before 1991;

"refund"
« remboursement »

"refund" of tax means

(*a*) a refund of that tax, or other payment calculated with reference to that tax, provided for under any of sections 68, 68.1, 68.17, 68.19, 68.2 or 68.23 to 68.3,

(*b*) a drawback of that tax, or payment in lieu of a drawback of that tax, provided for under section 70, or

(*c*) a refund, rebate, drawback or remission of that tax, or other payment in respect of or calculated with reference to that tax, provided for under any other enactment;

"registrant"
« inscrit »

"registrant" has the meaning assigned by subsection 123(1);

"tax"
«taxe»

"tax" means tax imposed by Part VI.

Adjustments after 1990

(2) A refund of tax shall not be paid to a person (in this subsection referred to as the "vendor") in respect of an adjustment made after 1990 to the sale price of goods sold by the vendor to a purchaser unless

(*a*) the vendor sold the goods to the purchaser under an agreement in writing, paid tax in respect of the sale of the goods calculated on the sale price and granted the adjustment within two years after the day on or before which the vendor was required to pay the tax under section 78; and

(*b*) the adjustment is provided for in the agreement and the making of the adjustment is not dependant on the performance of any service or other act by the purchaser.

Exports after 1990

(3) A refund of tax provided for under section 68.1 or 70 or any other enactment in respect of goods exported from Canada shall not be paid to a person in respect of goods exported by the person after 1990 unless

(*a*) the person had possession of the goods in Canada at the end of 1990 and was not a registrant on January 1, 1991; or

(*b*) the person imported the goods, had possession of the goods in Canada at the end of 1990 and was not entitled to be paid a rebate in respect of the goods under section 120, and the goods suffered damage or deterioration at any time before the goods were released, were of inferior quality to those in respect of which the person paid tax, were defective or were not the goods ordered by the person.

Goods sold after 1990

(4) A refund of tax provided for under section 68.17, 68.2 or 70 or any other enactment in respect of goods sold or otherwise supplied or transferred by a person to a purchaser or other transferee shall not be paid to the person unless the person transferred ownership or possession of the goods to the purchaser or other transferee of the goods before 1991.

Goods for use by a province

(5) A refund of tax shall not be paid under section 68.19 in respect of goods supplied, transferred or delivered to, or purchased by, Her Majesty in right of a province unless

(*a*) Her Majesty in that right acquired ownership or possession of the goods before 1991; or

(*b*) the goods were supplied or transferred to Her Majesty in that right by a person in the course of performing services under an agreement in writing with Her Majesty in that right and the person had possession of the goods in Canada at the end of 1990 and was not entitled to be paid a rebate in respect of the goods under section 120.

System goods acquired after 1990

(6) A refund of tax shall not be paid under section 68.23 to a person in respect of system goods unless the person acquired ownership or possession of the goods before 1991 and was not entitled to be paid a rebate in respect of the goods under section 120.

Goods acquired by certain organizations after 1990

(7) A refund of tax shall not be paid under any of sections 68.24 to 68.27 to a person (in this subsection referred to as the "organization") unless

(*a*) in the case of goods purchased by the organization, the organization acquired ownership or possession of the goods before 1991; or

(*b*) in the case of goods acquired or used by another person for a purpose for which a refund of tax to the organization is provided for under that section, the other person acquired ownership or possession of the goods before 1991 and was not entitled to be paid a rebate in respect of the goods under section 120.

Other goods acquired after 1990

(8) A refund of tax in respect of goods purchased or otherwise acquired by a person shall not be paid under any of sections 68.28 to 68.3 or 70 or any other enactment to the person unless the person acquired ownership or possession of the goods before 1991.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

4. (1) Paragraph 81.39(1)(*b*) is repealed and the following substituted therefor:

(*b*) received a payment under subsection 72(6) or (7), 81.14(1), 81.16(1), (4) or (5), 81.18(1) or (3) or 120(7), or

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

5. (1) Paragraph 118(1)(*b*) of the French version of the said Act is repealed and the following substituted therefor:

b) les marchandises dont l'importation n'a pas fait l'objet d'une déclaration en détail ou provisoire aux termes des paragraphes 32(1), (2) ou (5) de la *Loi sur les douanes* avant 1991;

(2) Subsection 118(5) of the said Act is repealed and the following substituted therefor:

Idem

(5) Where a person who is a manufacturer or producer has, after October 1989, entered into a contract referred to in subparagraph 50(1)(*a*)(ii) in respect of the sale of goods of the person's manufacture or production and the goods have been delivered to the purchaser, or the property therein has passed to the purchaser, before 1991, any instalments that become payable under the contract after November 1990 shall, for the purposes of this Act, be deemed to have become payable on December 31, 1990.

(3) Section 118 of the said Act is further amended by adding thereto, immediately after subsection (6) thereof, the following subsection:

Diversions after 1990

(6.1) Where any of the events described in subsection 50(7) or (8) in respect of goods occur after 1990, no tax under Part VI shall be imposed, levied or collected under that subsection in respect of the goods.

(4) Subsections (1) to (3) shall be deemed to have come into force on December 17, 1990.

6. (1) Paragraph (*a*) of the definition "inventory" in subsection 120(1) of the said Act is repealed and the following substituted therefor:

(*a*) held at that time for sale, lease or rental separately, for a price or rent in money, to others in the ordinary course of a commercial activity of the person, or

(2) All that portion of the definition "tax-paid goods" in subsection 120(1) of the said Act following paragraph (*c*) thereof is repealed and the following substituted therefor:

and on the sale price or on the volume sold of which tax (other than tax payable in accordance with subparagraph 50(1)(*a*)(ii)) was imposed under subsection 50(1), was paid and is not, but for this section, recoverable.

(3) Subsection 120(1) of the said Act is further amended by adding thereto, in alphabetical order, the following definition:

"commercial activity"
« activité commerciale »

"commercial activity" of a person means a business carried on by the person (other than a business carried on by an individual without a reasonable expectation of profit) except to the extent to which the business involves the making of exempt supplies (within the meaning assigned by subsection 123(1)) by the person;

(4) Section 120 of the said Act is further amended by adding thereto, immediately after subsection (2) thereof, the following subsection:

Goods not expected to be sold

(2.1) For the purposes of paragraph (*a*) of the definition "inventory" in subsection (1), that portion of the tax-paid goods that are described in a person's inventory in Canada at any time that can reasonably be expected to be consumed or used by the person shall be deemed not to be held at that time for sale, lease or rental.

(5) The said Act is further amended by adding thereto, immediately after subsection 120(3) thereof, the following subsections:

Restriction on rebate

(3.1) Where section 178.3 applies, on January 1, 1991, to a direct seller, exclusive products of the direct seller that, but for this subsection, form part of the inventory of an independent sales contractor of the direct seller at the beginning of that day shall be deemed, for the purposes of this section, not to form part of that inventory.

Idem

(3.2) Where

(*a*) a person is an independent sales contractor of a direct seller,

(*b*) the direct seller and a distributor of the direct seller have been granted an approval under subsection 178.2(4) upon an application made jointly by the direct seller and the distributor, and the approval is in effect on January 1, 1991, and

(*c*) the person and the direct seller have not jointly made an application under subsection 178.2(2) in respect of which such an approval is in effect on that day,

exclusive products of the direct seller that, but for this subsection, form part of the inventory of the person at the beginning of that day shall be deemed, for the purposes of this section, not to form part of that inventory.

Definitions

(3.3) In subsections (3.1) and (3.2), "direct seller", "distributor", "exclusive product" and "independent sales contractor" have the meanings assigned by section 178.1.

(6) Subsection 120(6) of the said Act is repealed and the following substituted therefor:

Application of Parts VI and VII

(6) Parts VI and VII, other than subsection 72(7), apply in respect of an application for a rebate and of a payment of a rebate under this

section as if the application were an application for a refund under section 68 and the payment were made under section 72.

(7) Subsections (1) to (6) shall be deemed to have come into force on December 17, 1990.

7. (1) Paragraph (*a*) of the definition "specified residential complex" in subsection 121(1) of the said Act is repealed and the following substituted therefor:

(*a*) a multiple unit residential complex containing more than two residential units where the construction or substantial renovation of the complex began before 1991 and subsection 191(3) did not apply and, notwithstanding subsections 191(6) and (7), would not have applied, after the construction or substantial renovation began and before 1991, to deem a supply of the complex to have been made, or

(2) Paragraph (*b*) of the definition "specified residential complex" in subsection 121(1) of the English version of the said Act is repealed and the following substituted therefor:

(*b*) a residential condominium unit where the construction or substantial renovation of the condominium complex in which the unit is situated began before 1991 and neither subsection 191(1) nor (2) applied, after the construction or substantial renovation began and before 1991, to deem a supply of the unit to have been made;

(3) The definition "specified single unit residential complex" in subsection 121(1) of the said Act is repealed and the following substituted therefor:

"specified single unit residential complex"
« immeuble d'habitation à logement unique déterminé »

"specified single unit residential complex" means a residential complex (other than a floating home or a mobile home)

(*a*) that is a single unit residential complex or a multiple unit residential complex containing not more than two residential units;

(*b*) the construction or substantial renovation of which began before 1991; and

(c) that was not occupied by any individual as a place of residence or lodging after the construction or substantial renovation began and before 1991.

(4) Subsections 121(2) to (4) of the said Act are repealed and the following substituted therefor:

Rebate for specified single unit residential complex

(2) Where

(*a*) a builder of a specified single unit residential complex

(i) gives possession of the complex to a person under a lease, licence or similar arrangement and thereby is deemed under subsection 191(1) to have made a taxable supply of the complex, or

(ii) makes a taxable supply by way of sale of the complex to an individual,

(*b*) tax under Part IX is payable in respect of the supply,

(*c*) the individual or person, as the case may be, first takes possession of the complex after 1990 and before 1995, and

(*d*) the construction or substantial renovation of the complex is substantially completed

(i) before July 1991, where the individual or person, as the case may be, first takes possession of the complex before July 1991, and

(ii) before 1991, in any other case,

the Minister shall, subject to subsections (4) and (4.1), pay a rebate to the individual or, in the case described in subparagraph (*a*)(i), to the builder, equal to

(*e*) 2/3 of the estimated federal sales tax for the complex where, before April 1991, the construction or substantial renovation of the complex is substantially completed and possession of the complex is transferred, and (*f*) 1/3 of the estimated federal sales tax for the complex in any other case.

Liability of the builder

(2.1) Where a rebate in respect of a residential complex is paid under subsection (2) to an individual who is not the builder of the complex, or to an assignee of the individual, and

(*a*) the builder has given to the individual or to the Minister incorrect information in writing as to the substantial completion before 1991 of the construction or substantial renovation of the complex,

(*b*) the builder knew or ought to have known that the information was incorrect, and

(*c*) the individual did not know and could not reasonably be expected to have known that the information was incorrect,

the rebate shall be deemed, for the purposes of section 81.39, to have been received by the builder as if the builder had applied therefor.

Rebate for specified residential complex

(3) Where, immediately before 1991, a builder of a specified residential complex (other than a builder of the complex to whom, because of subsection 191(5) or (6), subsections 191(1) to (4) do not apply) owned or had possession of the complex and had not transferred ownership or possession under an agreement of purchase and sale to any person who is not a builder of the complex, the Minister shall, subject to subsections (4) and (4.1), pay a rebate to the builder equal to

(*a*) where the complex is a multiple unit residential complex,

(i) 50% of the estimated federal sales tax for the complex, where the construction or substantial renovation of the complex was, on January 1, 1991, more than 25% completed and not more than 50% completed, and

(ii) 75% of the estimated federal sales tax for the complex, where the construction or substantial renovation of the complex was, on January 1, 1991, more than 50% completed, and (*b*) where the complex is a residential condominium unit in a condominium complex,

(i) 50% of the estimated federal sales tax for the unit, where the construction or substantial renovation of the condominium complex was, on January 1, 1991, more than 25% completed and not more than 50% completed, and

(ii) 75% of the estimated federal sales tax for the unit, where the construction or substantial renovation of the condominium complex was, on January 1, 1991, more than 50% completed.

Application for rebate

(4) A rebate in respect of a residential complex shall not be paid under this section to a person where the person fails to apply to the Minister for the rebate in prescribed form and manner before 1995 or where a rebate under this section in respect of the complex was paid to any other person entitled thereto.

Rebate based on consideration

(4.1) Where the estimated federal sales tax for a residential complex is an amount based on the consideration, or a portion thereof, for a supply of the complex, a rebate in respect of the complex shall not be paid under this section to a person unless the person has applied for the rebate after tax under Part IX became payable in respect of that supply.

(5) Subsection 121(6) of the said Act is repealed and the following substituted therefor:

Application of Parts VI and VII

(6) Parts VI and VII apply in respect of an application for a rebate and of a payment of a rebate under this section as if the application were an application for a refund under section 68 and the payment were made under section 72.

Application of anti-avoidance rule

121.1 Section 274 applies to this Part with such modifications as the circumstances require and for that purpose every reference in section 274 to "an assessment, a reassessment or an additional assessment" shall be read as a reference to "an assessment, a reassessment, an additional assessment, a determination or a redetermination".

(6) Subsections (1) to (5) shall be deemed to have come into force on December 17, 1990 except that subsection 121(3) of the said Act, as enacted by subsection (4), shall be read without reference to the words "or (6)" in its application to any residential complex the builder of which is a person to whom subsections 191(1) to (4) of the said Act do not apply because of subsection 191(6) of the said Act and in respect of which an application for a rebate under section 121 of the said Act is filed in accordance with that section before September 15, 1992.

8. (1) Paragraph 122(*a*) of the said Act is repealed and the following substituted therefor:

(*a*) on Her Majesty in right of Canada; and

(2) Section 122 of the said Act is further amended by striking out the word "and" at the end of paragraph (*b*) thereof and by repealing paragraph (*c*) thereof.

(3) Subsections (1) and (2) shall be deemed to have come into force on December 17, 1990.

9. (1) The definitions "commercial activity", "credit note", "exclusive", "membership", "non-profit organization", "recipient", "registrant", "segregated fund" and "taxable supply" in subsection 123(1) of the said Act are repealed and the following substituted therefor:

"commercial activity"
« activité commerciale"

"commercial activity" of a person means

(*a*) a business carried on by the person (other than a business carried on by an individual or a partnership, all of the members of which are individuals, without a reasonable expectation of profit) except to the extent to which the business involves the making of exempt supplies by the person,

(*b*) an adventure or concern of the person in the nature of trade (other than an adventure or concern engaged in by an individual or a partnership, all of the members of which are individuals, without a reasonable expectation of profit) except to the extent to which the adventure or concern involves the making of exempt supplies by the person, and

(*c*) the making of a supply (other than an exempt supply) by the person of real property of the person, including anything done by the person in the course of or in connection with the making of the supply;

"credit note"
« note de crédit »

"credit note" means a credit note issued under subsection 232(3);

"exclusive"
« exclusif »

"exclusive", in respect of the consumption, use or supply of property or a service by a person that is not a financial institution, means all or substantially all of the consumption, use or supply of the property or service, and, in respect of the consumption, use or supply of property or a service by a financial institution, means all of the consumption, use or supply of the property or service;

"membership"
« droit d'adhésion »

"membership" includes a right granted by a particular person that entitles another person to services that are provided by, or to the use of facilities that are operated by, the particular person and that are not available, or are not available to the same extent or for the same fee or charge, to persons to whom such a right has not been granted, and also includes such a right that is conditional on the acquisition or ownership of a share, bond, debenture or other security;

"non-profit organization"
«organisme à but non lucratif»

"non-profit organization" means a person (other than an individual, an estate, a trust, a charity or a government) that was organized and is operated solely for a purpose other than profit, no part of the income of which is payable to, or otherwise available for the personal benefit of, any proprietor, member or shareholder thereof unless the proprietor, member or shareholder is a club, a society or an association the primary purpose and function of which is the promotion of amateur athletics in Canada;

"recipient"
« acquéreur »

"recipient" of a supply of property or a service means

(*a*) where consideration for the supply is payable under an agreement for the supply, the person who is liable under the agreement to pay that consideration,

(*b*) where paragraph (*a*) does not apply and consideration is payable for the supply, the person who is liable to pay that consideration, and

(*c*) where no consideration is payable for the supply,

(i) in the case of a supply of property by way of sale, the person to whom the property is delivered or made available,

(ii) in the case of a supply of property otherwise than by way of sale, the person to whom possession or use of the property is given or made available, and

(iii) in the case of a supply of a service, the person to whom the service is rendered;

and any reference to a person to whom a supply is made shall be read as a reference to the recipient of the supply;

"registrant"
« inscrit »

"registrant" means a person who is registered, or who is required to be registered, under Subdivision d of Division V;

"segregated fund"
« fonds réservé »

"segregated fund" of an insurer means a specified group of properties that is held in respect of insurance policies all or part of the reserves for which vary in amount depending on the fair market value of the properties;

"taxable supply"
« fourniture taxable »

"taxable supply" means a supply that is made in the course of a commercial activity;

(2) Paragraph (*c*) of the definition "builder" in subsection 123(1) of the said Act is repealed and the following substituted therefor:

(*c*) in the case of a mobile home or floating home, makes a supply of the home before the home has been used or occupied by any individual as a place of residence,

(3) Subparagraph (*d*)(ii) of the definition "builder" in subsection 123(1) of the said Act is repealed and the following substituted therefor:

(ii) in any case, before it has been occupied by an individual as a place of residence or lodging,

(4) All that portion of the definition "builder" in subsection 123(1) of the said Act following paragraph (*d*) thereof is repealed and the following substituted therefor:

(*e*) in any case, is deemed under subsection 190(1) to be a builder of the complex

but does not include

(*f*) an individual described by paragraph (*a*), (*b*) or (*d*) who

(i) carries on the construction or substantial renovation,

(ii) engages another person to carry on the construction or substantial renovation for the individual, or

(iii) acquires the complex or interest therein,

otherwise than in the course of a business or an adventure or concern in the nature of trade,

(*g*) an individual described by paragraph (*c*) who makes a supply of the mobile home or floating home otherwise than in the course of a business or an adventure or concern in the nature of trade, or

(*h*) a person described by any of paragraphs (*a*) to (*c*) whose only interest in the complex is a right to purchase the complex or an interest therein from a builder of the complex;

(5) Paragraph (*f*) of the definition "financial service" in subsection 123(1) of the said Act is repealed and the following substituted therefor:

(*f*) the payment or receipt of money as dividends (other than patronage dividends), interest, principal, claims, benefits, or any similar payment or receipt of money in respect of a financial instrument.

(6) Paragraph (*j*) of the definition "financial service" in subsection 123(1) of the said Act is repealed and the following substituted therefor:

(*j*) the service of investigating and recommending the compensation in satisfaction of a claim under an insurance policy where the service is supplied by an insurer or by another person who, except in the case of a claim under a marine insurance policy, is licensed under the laws of a province to provide such service,

(*j.1*) the service of inspecting property and providing a person who supplies a service referred to in paragraph (*j*) in respect of the property with an appraisal of the damage caused to the property,

(7) Paragraph (*p*) of the definition "financial service" in subsection 123(1) of the said Act is repealed and the following substituted therefor:

(*p*) the service of providing advice other than a service included in this definition because of paragraph (*j*) or (*j.1*),

(8) The definition "financial service" in subsection 123(1) of the said Act is further amended by adding thereto, immediately after paragraph (*r*) thereof, the following paragraph:

(*r.1*) the arranging for the transfer of ownership of shares of a cooperative housing corporation,

(9) All that portion of paragraph (*a*) of the definition "insurance policy" in subsection 123(1) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

(*a*) a policy or contract of insurance (other than a warranty in respect of the quality, fitness or performance of tangible personal property, where the warranty is supplied to a person who acquires the property otherwise than for resale) that is issued by an insurer, including

(10) The definition "qualifying subsidiary" in subsection 123(1) of the said Act is amended by striking out the word "and" at the end of paragraph (*a*) thereof, by adding the word "and" at the end of paragraph (*b*) thereof and by adding thereto the following paragraph:

(*c*) where the particular corporation is a member of a mutual insurance group, every other member of that group;

(11) Paragraph (*c*) of the definition "real property" in subsection 123(1) of the said Act is repealed and the following substituted therefor:

(*c*) a mobile home, a floating home and any leasehold or proprietary interest therein;

(12) All that portion of paragraph (*a*) of the definition "residential complex" in subsection 123(1) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

(*a*) that part of a building in which one or more residential units are located, together with

(13) The definition "residential complex" in subsection 123(1) of the said Act is further amended by striking out the word "and" at the end of paragraph (*b*) thereof and by adding thereto, immediately after paragraph (*c*) thereof, the following paragraphs:

(*c*.1) a mobile home, together with any appurtenances to the home and, where the home is affixed to land (other than a site in a residential trailer park) for the purpose of its use and enjoyment as a place of residence for individuals, the land subjacent or immediately contiguous to the home that is attributable to the home and is reasonably necessary for that purpose, and (*c*.2) a floating home,

(14) All that portion of the definition "residential complex" in subsection 123(1) of the said Act, as amended by subsection (14), following paragraph (*c*) thereof is repealed and the following substituted therefor:

(*d*) a mobile home, together with any appurtenances to the home and, where the home is affixed to land (other than a site in a residential trailer park) for the purpose of its use and enjoyment as a place of residence for individuals, the land subjacent or immediately contiguous to the home that is attributable to the home and is reasonably necessary for that purpose, and

(*e*) a floating home,

but not including a building, or that part of a building, that is, a hotel, motel, inn, boarding house, lodging house or other similar premises, or the land and appurtenances attributable to the building or part, where the building is not described in paragraph (*c*) and all or substantially all of the supplies of residential units in the building or part by way of lease, licence or similar arrangement are, or are expected to be, for periods of less than sixty days;

(15) Paragraph (*a*) of the definition "residential unit" in subsection 123(1) of the said Act is repealed and the following substituted therefor:

(*a*) a detached house, semi-detached house, rowhouse unit, condominium unit, mobile home, floating home or apartment,

(16) Paragraph (*c*) of the definition "service" in subsection 123(1) of the said Act is repealed and the following substituted therefor:

(*c*) anything that is supplied to an employer by a person who is or agrees to become an employee of the employer in the course of or in relation to the office or employment of that person;

(17) The definitions "prescribed" and "short-term accommodation" in subsection 123(1) of the English version of the said Act are repealed and the following substituted therefor:

"prescribed"
Version anglaise seulement

"prescribed" means

(*a*) in the case of a form or the manner of filing a form, authorized by the Minister,

(*b*) in the case of the information to be given on a form, specified by the Minister,

(*c*) in the case of the manner of making or filing an election, authorized by the Minister, and

(*d*) in any other case, prescribed by regulation or determined in accordance with rules prescribed by regulation;

"short-term accommodation"
« logement provisoire »

"short-term accommodation" means a residential complex or a residential unit that is supplied by way of lease, licence or similar arrangement for the purpose of its occupancy by an individual as a place of residence or lodging, where the complex or unit is occupied by the same individual for a period of less than a month;

(18) Subsection 123(1) of the said Act is further amended by adding thereto, in alphabetical order, the following definitions:

"carrier"
« transporteur »

"carrier" means a person who supplies a freight transportation service within the meaning assigned by subsection 1(1) of Part VII of Schedule VI;

"commercial service"
« service commercial »

"commercial service" means a processing service within the meaning assigned by subsection 252(5);

"consideration"
« contrepartie »

"consideration" includes any amount that is payable for a supply by operation of law;

"convention"
« congrès »

"convention" means a formal meeting or assembly that is not open to the general public, but does not include a meeting or assembly the principal purpose of which is to

(*a*) provide any type of amusement, entertainment or recreation,

(*b*) conduct contests or games of chance, or

(*c*) transact the business of the convenor or attendees

(i) in the course of a trade show that is open to the general public, or

(ii) otherwise than in the course of a trade show;

"convention facility"
« centre de congrès »

"convention facility" means real property that is acquired by way of lease, licence or similar arrangement by the sponsor or organizer of a convention for use exclusively as the site for the convention;

"cooperative corporation"
« coopérative »

"cooperative corporation" means a cooperative housing corporation and any other cooperative corporation within the meaning assigned by subsection 136(2) of the *Income Tax Act*;

"cooperative housing corporation"
« coopérative d'habitation »

"cooperative housing corporation" means a corporation that was incorporated, by or under a law of Canada or a province providing for the establishment of the corporation or respecting the establishment of cooperative corporations, for the purpose of making supplies by way of lease, licence or similar arrangement of residential units to its members for the purpose of their occupancy as places of residence for individuals where

(*a*) the statute by or under which it was incorporated, its charter, articles of association or by-laws or its contracts with its members require that the activities of the corporation be engaged in at or near cost after providing for reasonable reserves and holds forth the prospect that surplus funds arising from those activities will be distributed among its members in proportion to patronage,

(*b*) none of its members (except other cooperative corporations) have more than one vote in the conduct of the affairs of the corporation, and

(*c*) at least 90% of its members are individuals or other cooperative corporations and at least 90% of its shares are held by such persons;

"courier"
« messager »

"courier" has the meaning assigned by subsection 2(1) of the *Customs Act*;

"debit note"
« note de débit »

"debit note" means a debit note issued under subsection 232(3);

"employee"
« salarié »

"employee" includes officer;

"employer"
« employeur »

"employer", in relation to an officer, means the person from whom the officer receives remuneration;

"floating home"
« maison flottante »

"floating home" means a structure composed of a floating platform and a building designed to be occupied as a place of residence for individuals that is permanently affixed to the platform, but does not include any freestanding appliances or furniture sold with the structure or any structure that has means of, or is capable of being readily adapted for, self-propulsion;

"foreign convention"
« congrès étranger »

"foreign convention" means a convention

(*a*) at least 75% of the admissions to which are, at the time the sponsor of the convention determines the amount to be charged as consideration therefor, reasonably expected to be supplied to non-resident persons, and

(*b*) the sponsor of which is an organization whose head office is situated outside Canada or, where the organization has no head office, the member, or majority of members, of which having management and control of the organization is or are non-resident;

"month"
« mois »

"month" means any period beginning on a particular day in a calendar month and ending on

(*a*) the day immediately preceding the day in the next calendar month that has the same calendar number as the particular day, or

(*b*) where the next calendar month does not have a day that has the same calendar number as the particular day, the last day of that next calendar month;

"mutual insurance federation"
« fédération de sociétés mutuelles d'assurance »

"mutual insurance federation" means a corporation each member of which is a mutual insurance corporation that is required, under an Act of the legislature of a province, to be a member of the corporation, but does not include a corporation the main purpose of which is

(*a*) related to automobile insurance,

(*b*) to provide compensation to insurance policy holders of, or claimants on, insolvent insurers, or (*c*) to establish and manage a guarantee fund, cash reserve fund, mutual aid fund or similar fund for the benefit of its members and to provide financial assistance with regard to losses sustained on the winding-up or dissolution of its members;

"mutual insurance group"
« regroupement de sociétés mutuelles d'assurance »

"mutual insurance group" means a group consisting of

(*a*) a mutual insurance federation and its members,

(*b*) where the members of the mutual insurance federation are the sole investors in an investment fund, that fund, and

(*c*) where there exists a mutual reinsurance corporation each member of which is a member of the mutual insurance federation and is not entitled to obtain reinsurance from any other reinsurance corporation, that mutual reinsurance corporation;

"organizer"
« organisateur »

"organizer" of a convention means a person that acquires the convention facility or related convention supplies and organizes the convention for another person who is the sponsor of the convention;

"related convention supplies"
« fournitures liées à un congrès »

"related convention supplies" means property or services acquired or imported by a person exclusively for consumption, use or supply by the person in connection with a convention, but does not include

(*a*) transportation services other than a chartered service acquired by the person solely for the purpose of transporting attendees of the convention between any of the convention facilities, places of lodging of the attendees, or transportation terminals,

(*b*) food, beverages or entertainment,

(*c*) property or services that are supplied to the person under a contract for catering, or (*d*) property or services supplied by the person in connection with the convention for consideration that is separate from the consideration for the admission to the convention;

"residential trailer park"
« parc à roulottes résidentiel »

"residential trailer park" of a person means the land that is included in a trailer park of the person or, where the person has two or more trailer parks that are immediately contiguous to each other, the land that is included in those contiguous trailer parks, and any buildings, fixtures and other appurtenances to the land that are reasonably necessary for

(*a*) the use and enjoyment of sites in that or those trailer parks by individuals residing in or occupying mobile homes, or travel trailers, motor homes or similar vehicles or trailers, situated or to be situated on those sites, or

(*b*) the purpose of engaging in the business of supplying those sites by way of lease, licence or similar arrangement,

but does not include such land and appurtenances or any part thereof unless the land encompasses at least two sites and all or substantially all of the sites in that or those trailer parks

(*c*) are supplied, or are intended to be supplied, by way of lease, licence or similar arrangement for a period of at least

(i) one month, in the case of a mobile home or other residential unit, and

(ii) twelve months, in the case of a travel trailer, motor home or similar vehicle or trailer that is not a residential unit, and

(*d*) if the sites were occupied by mobile homes, would be suitable for use by individuals as places of residence throughout the year;

"specified Crown agent"
« mandataire désigné »

"specified Crown agent" means a prescribed agent of Her Majesty in right of Canada;

"sponsor"
« promoteur »

"sponsor" of a convention means the person who convenes the convention and supplies admissions thereto;

"taxi business"
« entreprise de taxis »

"taxi business" means a business carried on in Canada of transporting passengers by taxi for fares that are regulated under the laws of Canada or a province;

"trailer park"
« parc à roulottes »

"trailer park" of a person means a piece of land that is owned by or leased to the person and is exclusively composed of

(*a*) one or more sites each of which is, or is intended to be, supplied by the person by way of lease, licence or similar arrangement to the owner, lessee or person in occupation or possession of a mobile home, or a travel trailer, motor home or similar vehicle or trailer, situated or to be situated on the site, and

(*b*) other land that is reasonably necessary for

(i) the use and enjoyment of the sites by individuals residing in or occupying mobile homes, or travel trailers, motor homes or similar vehicles or trailers, situated or to be situated on those sites, or

(ii) the purpose of engaging in the business of supplying the sites by way of lease, licence or similar arrangement;

(19) Subsection 123(1) of the French version of the said Act is amended by adding thereto, in alphabetical order, the following definition:

« réglementaire »
French version only

« réglementaire » Visé par règlement, y compris déterminé conformément à des règles prévues par règlement.

(20) The definition "commercial service" in subsection 123(1) of the said Act, as enacted by subsection (18), is repealed and the following substituted therefor:

"commercial service"
« service commercial »

"commercial service", in respect of tangible personal property, means any service in respect of the property other than a service of shipping the property supplied by a carrier and a financial service;

(21) The definitions "commercial activity", "non-profit organization" and "taxable supply" in subsection 123(1) of the said Act, as enacted by subsection (1), apply after ANNOUNCEMENT DATE.

(22) The definitions "credit note", "exclusive", "membership", "recipient", "registrant", and "segregated fund" in subsection 123(1) of the said Act, as enacted by subsection (1), and the definitions "prescribed" and "short-term accommodation" in subsection 123(1) of the English version of the said Act, as enacted by subsection (17), shall be deemed to have come into force on December 17, 1990.

(23) Subsections (2) to (4), (7), (10) to (13), (15), (16) and (19) shall be deemed to have come into force on December 17, 1990.

(24) Subsection (5) applies in respect of services supplied after September 14, 1992.

(25) Subsection (14) shall be deemed to have come into force on ANNOUNCEMENT DATE.

(26) Subsection (6) shall be deemed to have come into force on December 17, 1990, except that, in respect of services provided on or before ANNOUNCEMENT DATE, paragraph *(j.1)* of the definition "financial service" in subsection 123(1) of the said Act, as enacted by subsection (6), shall be read as follows:

> *(j.1)* the service of providing a person who supplies a service referred to in paragraph *(j)* in respect of property with an appraisal of the damage, other than loss, caused to the property,

(27) Subsection (8) shall be deemed to have come into force on ANNOUNCEMENT DATE but does not apply to services of arranging for the transfer of ownership of shares where the

services are supplied under an agreement in writing entered into on or before that date.

(28) Subsection (9) applies to warranties supplied after 1990.

(29) The definitions "carrier", "commercial service", "consideration", "convention", "convention facility", "cooperative corporation", "cooperative housing corporation", "debit note", "employee", "employer", "floating home", "foreign convention", "month", "mutual insurance federation", "mutual insurance group", "organizer", "related convention supplies", "residential trailer park", "specified Crown agent", "sponsor", "taxi business" and "trailer park" in subsection 123(1) of the said Act, as enacted by subsection (18), shall be deemed to have come into force on December 17, 1990.

(30) The definition "courier" in subsection 123(1) of the said Act, as enacted by subsection (18), shall come into force, or be deemed to have come into force, on the day a regulation made under the *Customs Act* assigning a meaning to "courier" for the purposes of that Act comes into force.

(31) Subsection (20) shall be deemed to have come into force on March 27, 1991.

10. (1) Section 124 of the said Act is renumbered as subsection 124(1) and is further amended by adding thereto the following subsections:

Idem

(2) Where, on any day, both penalty computed at a rate per year and interest are required to be compounded, they shall, on that day, be compounded together at a single rate equal to the total of the penalty rate and the interest rate as though both the penalty and interest were interest computed at that single rate.

Application of interest

(3) Where an amendment to this Part, or an amendment or an enactment that relates to this Part,

(*a*) applies to a person who did something or to or for whom something was done, (*b*) applies to property or a service that was supplied or in respect of which something was done,

(*c*) applies to an event or transaction that occurred,

(*d*) applies to a period of time all or part of which is, or

(*e*) comes into force on a particular day that is,

before the day on which the amendment or enactment is assented to or promulgated, for the purposes of applying the provisions of this Part that relate to or provide for the payment, or the liability for payment, of interest in respect of any amount, the amount shall be determined and interest shall be computed thereon as though the amendment or enactment had been assented to or promulgated before the thing was done, the supply was made, the occurrence of the event or transaction, the beginning of the period or the particular day, as the case may be.

Exception

(4) Subsection (3) does not apply for the purposes of computing any penalties under this Part.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990, except that interest shall not be computed under subsection 124(3) of the said Act, as enacted by subsection (1), on any amount payable by a person other than the Minister of National Revenue for any period ending on or before ANNOUNCEMENT DATE.

11. (1) Paragraph 128(1)(*a*) of the said Act is amended by adding the word "or" at the end of subparagraph (iv) thereof and by repealing subparagraph (vi) thereof.

(2) Section 128 of the said Act is further amended by adding thereto the following subsection:

Credit unions and members of mutual insurance group

(3) For the purposes of this section,

(*a*) a credit union and a member of a mutual insurance group shall each be deemed to be a registrant; and (*b*) an investment fund that is a member of a mutual insurance group shall be deemed to be a corporation.

(3) Subsections (1) and (2) shall be deemed to have come into force on December 17, 1990.

12. (1) Section 129 of the said Act is repealed and the following substituted therefor:

Meaning of "small supplier division"

129. (1) In this section and section 129.1, "small supplier division" of a public service body, at any time, means a branch or division of the body that, at that time,

(*a*) is a branch or division designated by the Minister as an eligible division for the purposes of this section; and

(*b*) would be a small supplier if

(i) the branch or division were a person separate from the body and its other branches or divisions,

(ii) the branch or division were not associated with any other person, and

(iii) every supply made by the body through the branch or division were made by the branch or division.

Branches of public service bodies

(2) A public service body that is engaged in one or more activities in separate branches or divisions may apply to the Minister, in prescribed form containing prescribed information, to have a branch or division specified in the application designated by the Minister as an eligible division for the purposes of this section.

Designation by Minister

(3) Where the Minister receives an application under subsection (2), the Minister may, by notice in writing, designate a branch or division specified in the application as an eligible division for the purposes of this section, effective on a day specified in the notice, if the Minister is satisfied that

(*a*) the branch or division can be separately identified by reference to its location or the nature of the activities engaged in by it;

(*b*) separate records, books of account and accounting systems are maintained in respect of the branch or division; and

(*c*) a designation of the branch or division has not, in the 365 day period ending on that day, been revoked under subsection (4) pursuant to a request made by the body.

Revocation of designation

(4) The Minister may, in writing, revoke a designation under subsection (3) of a branch or division of a public service body where the conditions described in paragraph (3)(*a*) or (*b*) are no longer met in respect of the branch or division or the body makes a request in writing to the Minister that the designation be revoked.

Notice of revocation

(5) Where, under subsection (4), the Minister revokes a designation of a branch or division of a public service body, the Minister shall send a notice in writing of the revocation to the body and shall specify in the notice the effective date of the revocation.

Supply of property on becoming a small supplier division

(6) For the purposes of this Part, where a branch or division of a public service body that is a registrant becomes at any time a small supplier division and the body does not, at that time, cease to be a registrant, the body shall be deemed

(*a*) to have made, immediately before that time, a supply of each of its properties, other than capital property or an improvement thereto, that was held immediately before that time for consumption, use or supply in the course of commercial activities of the body and that the body begins, immediately after that time, to hold for consumption, use or supply primarily in the course of activities engaged in by the body through its small supplier divisions; and

(*b*) except where the supply is an exempt supply, to have collected, immediately before that time, tax in respect of the supply equal to the total of all input tax credits in respect of the property that the body was entitled to claim at or before that time.

Services and rented properties on becoming a small supplier division

(7) Where,

(*a*) at any time in a particular reporting period of a public service body that is a registrant, a branch or division of the body becomes a small supplier division,

(*b*) the body does not, at that time, cease to be a registrant, and

(*c*) in or before that period, tax became payable, or was paid without having become payable, by the body and is calculated on consideration, or a part thereof,

(i) that is a rent, royalty or similar payment in respect of property and that is reasonably attributable to a period (in this subsection referred to as the "lease period") after that time, or

(ii) that is reasonably attributable to services that are to be rendered after that time,

the following rules apply:

(*d*) there shall not be included, in determining the input tax credits in respect of that tax that are claimed by the body in the return under section 238 for that or any subsequent reporting period, any portion of the amount determined by the formula

$$A \times B$$

where

A is that tax, and

B is the extent (expressed as a percentage) to which the property is used by the body during the lease period, or the services were acquired or imported by the body for consumption, use or supply, in the course of activities engaged in by the body through the branch or division, and

(*e*) where all or any portion of the amount determined under paragraph (*d*) was included in determining an input tax credit claimed by the body in a return under section 238 for a reporting period of the body ending before the particular reporting period, that amount or portion thereof shall be added in determining the net tax for the particular reporting period.

Supply by small supplier division

129.1 (1) Where a public service body makes a taxable supply, other than a supply of real property by way of sale, through a branch or division of the body and the consideration or a part thereof for the supply becomes due to the body at a time when the branch or division is a small supplier division or is paid to the body at such a time without having become due,

(*a*) that consideration or part thereof, as the case may be, shall not be included in calculating the tax payable in respect of the supply or in determining a threshold amount of the body under section 249; and

(*b*) that supply shall, for the purposes of this Part, be deemed not to have been made by a registrant.

Restriction on input tax credits for purchases

(2) In determining an input tax credit of a public service body, there shall not be included an amount in respect of tax that, at any time after March 27, 1991, became payable, or was paid without having become payable, by the body, to the extent that the tax

(*a*) is in respect of the acquisition or importation of property (other than capital property or improvements thereto) of the body for the purpose of consumption, use or supply in the course of activities engaged in by the body through a small supplier division thereof; or

(*b*) is calculated on consideration, or a part thereof, that is reasonably attributable to services that were, before that time, consumed, used or supplied by the body in the course of activities engaged in by the body through a small supplier division thereof or are, at that time, intended to be so consumed, used or supplied.

Restriction on input tax credits for leases

(3) Where property is supplied by way of lease, licence or similar arrangement to a public service body for consideration that includes two or more periodic payments that are attributable to successive parts (each of which is referred to in this subsection as a "lease interval") of the period for which possession or use of the property is provided under the arrangement and, at any time after March 27, 1991 and in a reporting period of the body, tax in respect of the supply, calculated on a particular periodic payment, becomes payable by the body or is

paid by the body without having become payable, that tax shall not be included in determining an input tax credit of the body in respect of the property for the reporting period to the extent that the body intended, at the beginning of the lease interval to which the particular periodic payment is attributable, to use the property in the course of activities engaged in by the body through a small supplier division thereof.

Change in use of non-capital property

(4) Where,

(*a*) at any time after March 27, 1991, a public service body that is a registrant begins to hold property of the body (other than capital property) for consumption, use or supply primarily in the course of activities engaged in by the body through its small supplier divisions, and

(*b*) immediately before that time, the body was holding the property for consumption, use or supply

(i) in the course of commercial activities of the body, and

(ii) otherwise than primarily in the course of activities engaged in by the body through its small supplier divisions,

except where subsection 129(6) or 171(3) applies, the body shall be deemed to have made, immediately before that time, a supply of the property and, except where the supply is an exempt supply, to have collected, immediately before that time, tax in respect of the supply equal to the total of all input tax credits in respect of the property that the body was entitled to claim at or before that time.

Idem

(5) Where

(*a*) a public service body begins, at any time after March 27, 1991, to hold property of the body (other than capital property) for consumption, use or supply primarily in the course of activities engaged in by the body otherwise than through its small supplier divisions,

(*b*) immediately before that time the property was held by the body for consumption, use or supply primarily in the course of activities engaged in by the body through its small supplier divisions, and (*c*) immediately after that time the property is held by the body for consumption, use or supply in the course of commercial activities engaged in by the body otherwise than through its small supplier divisions,

except where subsection 171(1) applies, for the purpose of determining an input tax credit of the body, it shall be deemed to have received a supply of the property and to have paid, at that time, tax in respect of the supply equal to the lesser of

(*d*) the amount, if any, by which

(i) the total of all amounts each of which is tax that, before that time, was paid or became payable by the body in respect of the last acquisition or importation of the property by the body or was deemed under subsection 129(6) to have been collected by the body in respect of the property

exceeds

(ii) the total of all input tax credits and rebates that the body was entitled to claim under this Part before that time in respect of that acquisition or importation, and

(*e*) tax calculated on the fair market value of the property at that time.

Use of capital property

(6) For the purposes of determining an input tax credit in respect of capital property of a public service body and for the purposes of Subdivision d of Division II, an activity engaged in by a public service body shall be deemed not to be a commercial activity of the body to the extent that the activity is engaged in through a small supplier division of the body.

Application of change in use rules

(7) Subsections 200(2) and 206(4) and (5) do not apply to a public service body in respect of a reduction in the extent to which property is used in commercial activities of the body where the reduction in use occurs before March 28, 1991 as a result of the application of subsection (6) and otherwise than as a result of a branch or division of the body becoming a small supplier division.

(2) Where, before the day on which this section is enacted, an application in respect of a branch or division is approved under section 129 of the said Act as it would read if subsection (1) were not enacted and the approval is not revoked before that day, the branch or division shall be deemed to have been designated as an eligible division under subsection 129(3) of the said Act, as enacted by subsection (1).

(3) Subsection (1) shall be deemed to have come into force on December 17, 1990 except that subsection 129(6) of the said Act, as enacted by subsection (1), does not apply to deem a supply of property to have been made before 1992 where ownership or possession of the property was transferred to the body before 1991.

13. (1) Section 132 of the said Act is amended by adding thereto the following subsection:

Residence of international shipping corporations

(5) Where under subsection 250(6) of the *Income Tax Act* a corporation is deemed for the purposes of that Act to be resident in a country other than Canada throughout a taxation year of the corporation and not to be resident in Canada at any time in the year, the corporation shall, for the purposes of this Part but subject to subsection (2), be deemed to be resident in that other country throughout the year and not to be resident in Canada at any time in the year.

(2) Subsection (1) applies to taxation years commencing after February 1991.

14. (1) Subsection 136(3) of the said Act is repealed and the following substituted therefor:

Idem

(3) For the purposes of this Part, where a builder of an addition to a multiple unit residential complex makes a supply of the complex or an interest therein by way of sale that, but for this subsection, would be a taxable supply and, but for the construction of the addition, would be an exempt supply described in section 5 of Part I of Schedule V, the addition and the remainder of the complex shall each be deemed to be a separate property and the sale of the addition or the interest therein shall be deemed to be a separate supply from the sale of the remainder of the complex or the interest therein, and neither supply is incidental to the other.

Idem

(4) For the purposes of this Part, where a person who has increased the area of land included in a residential trailer park of the person makes a supply of the park or an interest therein that, but for this subsection, would be a taxable supply and, but for the increase in the area of land included in the park, would be an exempt supply described in section 5.3 of Part I of Schedule V, the area of land by which the park was increased and the remainder of the park shall each be deemed to be a separate property and the sale of the additional area or the interest therein shall be deemed to be a supply separate from the sale of the remainder of the park or the interest therein, and neither supply is incidental to the other.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990 except that subsection 136(4) of the said Act, as enacted by subsection (1), does not apply to a supply of a residential trailer park or interest therein where ownership or possession of the park or interest is transferred to the recipient before November 6, 1991 or the supply is made under an agreement in writing entered into before November 6, 1991.

15. (1) Section 139 of the said Act is repealed and the following substituted therefor:

Financial services in mixed supply

139. For the purposes of this Part, where

(*a*) one or more financial services are supplied together with one or more other services that are not financial services, or with property that is not capital property of the supplier, for a single consideration,

(*b*) the financial services are related to the other services or the property,

(*c*) it is the usual practice of the supplier to supply those services, or property and services, together in the ordinary course of the business of the supplier, and

(*d*) the total of all amounts, each of which would be the consideration for a financial service so supplied if that financial service had been supplied separately, is greater than 50% of the total of all amounts, each of which would be the consideration for a service or property so supplied if that service or property had been supplied separately,

the supply of each of the services and properties shall be deemed to be a supply of a financial service.

(2) Subsection (1) applies to supplies made after September 14, 1992.

16. (1) Section 140 of the said Act is repealed and the following substituted therefor:

Supply of membership with security

140. For the purposes of this Part, where, as a condition of obtaining a right that is a membership, or a right to acquire a membership, in a particular organization, the recipient of the right or any other person must acquire or own a share, bond, debenture or other security (other than a share in a credit union or in a cooperative corporation the main purpose of which is not to provide dining, recreational or sporting facilities) that represents capital stock or debt of the particular organization or of another organization that is related to the particular organization,

(*a*) the provision of the right shall be deemed to be a supply separate from, and not incidental to, the provision of the security; and

(*b*) the consideration for the supply of the security shall be deemed to be part of the consideration for the supply of the right.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

17. (1) Section 141 of the said Act is repealed and the following substituted therefor:

Use in commercial activities

141. (1) For the purposes of this Part, where substantially all of the consumption or use of property or a service by a person, other than a financial institution, is in the course of the person's commercial activities, all of the consumption or use of the property or service by the person shall be deemed to be in the course of those activities.

Intended use in commercial activities

(2) For the purposes of this Part, where substantially all of the consumption or use for which a person, other than a financial institution, acquires or imports property or a service is in the course of the person's commercial activities, all of the consumption or use for which the person acquired or imported the property or service shall be deemed to be in the course of those activities.

Use in other activities

(3) For the purposes of this Part, where substantially all of the consumption or use of property or a service by a person, other than a financial institution, is in the course of particular activities of the person that are not commercial activities, all of the consumption or use of the property or service by the person shall be deemed to be in the course of those particular activities.

Intended use in other activities

(4) For the purposes of this Part, where substantially all of the consumption or use for which a person, other than a financial institution, acquires or imports property or a service is in the course of particular activities of the person that are not commercial activities, all of the consumption or use for which the person acquired or imported the property or service shall be deemed to be in the course of those particular activities.

Real property that includes residential complex

(5) For the purposes of subsections (1) to (4), where real property includes a residential complex and another part that is not part of the residential complex,

(*a*) the residential complex and the other part shall each be deemed to be a separate property; and

(*b*) where property or a service is acquired for consumption or use in relation to the real property, subsections (1) to (4) apply to the property or service only to the extent it is acquired for consumption or use in relation to the part that is not part of the residential complex.

Disposition of personal property

141.1 (1) For the purposes of this Part,

(*a*) where a person makes a supply (other than an exempt supply) of personal property that

(i) was consumed, used, manufactured or produced by the person in the course of a commercial activity of the person, or

(ii) was acquired, imported, manufactured or produced by the person for consumption or use in the course of a commercial activity of the person,

the person shall be deemed to have made the supply in the course of the commercial activity; and

(*b*) where a person makes a supply (other than a supply made by way of lease, licence or similar arrangement in the course of a business of the person) of personal property that

(i) was acquired, imported, manufactured or produced by the person exclusively for consumption or use in the course of activities of the person that are not commercial activities, and

(ii) was not consumed, used, manufactured or produced by the person in the course of commercial activities of the person,

the person shall be deemed to have made the supply otherwise than in the course of commercial activities.

Disposition of inventory, etc.

(2) For the purposes of this Part,

(*a*) where a person makes a particular supply by way of sale of personal property or a service that was acquired, imported, manufactured or produced by the person exclusively for the purpose of making a supply of that property or service by way of sale in the course of a business of the person or in the course of an adventure or concern of the person in the nature of trade, except where

(i) the particular supply is an exempt supply,

(ii) paragraph (*b*) applies in respect of the particular supply, or

(iii) the person is an individual or a partnership, all of the members of which are individuals, who carries on the business or engages in the adventure or concern without a reasonable expectation of profit,

the person shall be deemed to have made the particular supply in the course of commercial activities of the person; and

(*b*) where a person makes a supply by way of sale of personal property or a service that was acquired, imported, manufactured or produced by the person exclusively for the purpose of making an exempt supply of the property or service by way of sale, the person shall be deemed to have made the supply otherwise than in the course of commercial activities.

Acquisition etc. of activities

(3) For the purposes of this Part,

(*a*) to the extent that a person does anything (other than make a supply) in connection with the acquisition, establishment, disposition or termination of a commercial activity of the person, the person shall be deemed to have done that thing in the course of commercial activities of the person; and

(*b*) to the extent that a person does anything (other than make a supply) in connection with the acquisition, establishment, disposition or termination of an activity of the person that is not a commercial activity, the person shall be deemed to have done that thing otherwise than in the course of commercial activities.

(2) Subsection (1) shall be deemed to have come into force on THE DAY IMMEDIATELY FOLLOWING ANNOUNCEMENT DATE.

18. (1) All that portion of subsection 142(1) of the said Act preceding paragraph (*a*) thereof is repealed and the following substituted therefor:

General rule -- in Canada

142. (1) For the purposes of this Part, subject to sections 143, 144 and 179, a supply shall be deemed to be made in Canada if

(2) Section 142 of the said Act is further amended by adding thereto the following subsection:

Mobile and floating homes

(3) For the purposes of this section,

(*a*) a floating home, and

(*b*) a mobile home that is not affixed to land

shall each be deemed to be tangible personal property and not real property.

(3) Subsections (1) and (2) shall be deemed to have come into force on December 17, 1990.

19. (1) Paragraph 143(2)(*d*) of the said Act is repealed and the following substituted therefor:

(*d*) the person is registered under Subdivision d of Division V.

(2) Subsection 143(2) of the said Act, as amended by subsection (1), is repealed.

(3) Subsection (1) shall be deemed to have come into force on December 17, 1990.

(4) Subsection (2) applies to supplies made after 1992.

20. (1) The said Act is further amended by adding thereto, immediately after section 143 thereof, the following section:

Supply by mail or courier

143.1 For the purposes of this Part, a supply of prescribed tangible personal property made by a person who is registered under Subdivision d of Division V shall be deemed to be made in Canada where the property is sent, by mail or courier, to the recipient of the supply at an address in Canada.

(2) Subsection (1) applies to supplies made after 1992.

21. (1) Paragraph 146(*c*) of the said Act is repealed and the following substituted therefor:

(*c*) a supply of a right to take or remove forestry products, fishery products, products that grow in water, minerals or peat, where the supply is made to

(i) a consumer, or

(ii) a person who is not a registrant and who acquires the right in the course of a business of the person of making supplies of the products, minerals or peat to consumers;

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

22. (1) Paragraph 148(1)(*a*) of the said Act is repealed and the following substituted therefor:

(*a*) the total of all amounts each of which is the value of the consideration (other than consideration referred to in section 167.1 that is attributable to goodwill of a business) that became due in the four calendar quarters immediately preceding the particular calendar quarter, or that was paid in those four calendar quarters without having become due, to the person or an associate of the person at the beginning of the particular calendar quarter for taxable supplies (other than supplies of financial services and supplies by way of sale of capital property of the person or associate) made inside or outside Canada by the person or associate

(2) Paragraph 148(2)(*a*) of the said Act is repealed and the following substituted therefor:

(*a*) the total of all amounts each of which is the value of the consideration (other than consideration referred to in section 167.1 that is attributable to goodwill of a business) that became due in the calendar quarter, or that was paid in that calendar quarter without having become due, to a person or an associate of the person at the beginning of the calendar quarter for taxable supplies (other than supplies of financial services and supplies by way of sale of capital property of the person or associate) made inside or outside Canada by the person or associate

(3) Subsections (1) and (2) shall be deemed to have come into force on December 17, 1990 except that in determining, under paragraphs 148(1)(*a*) and (2)(*a*) of the said Act, as enacted by subsections (1) and (2), the total of the consideration that became due to a person in a period or that was paid to the person in the period without having become due, there shall be included all

consideration for taxable supplies of financial services made by the person on or before ANNOUNCEMENT DATE that became due in that period or was paid in that period without having become due.

23. (1) Subparagraph 149(1)(*a*)(iii) of the said Act is repealed and the following substituted therefor:

(iii) a person whose principal business is as a trader or dealer in, or as a broker or salesperson of, financial instruments or money,

(2) All that portion of paragraph 149(1)(*b*) of the said Act preceding subparagraph (ii) thereof is repealed and the following substituted therefor:

(*b*) except where the person is, at the beginning of the particular year, a charity (within the meaning of subsection 259(1)), municipality, school authority, hospital authority, public college or university or is, on the last day of the taxation year of the person immediately preceding the particular year, a qualifying non-profit organization within the meaning of subsection 259(2),

(i) the total of all amounts each of which is an amount that is included in computing, for the purposes of the *Income Tax Act*, the person's income, or, where the person is an individual, the person's income from a business, for the taxation year of the person immediately preceding the particular year and that is interest, a dividend (other than a dividend in kind or a patronage dividend) or a separate fee or charge for a financial service

exceeds either

(3) Subsection 149(4) of the said Act is repealed and the following substituted therefor:

Exclusion of interest and dividend

(4) In determining a total for a person under subparagraph (1)(*b*)(i), there shall not be included interest, or any dividend, from a corporation related to the person.

(4) Subparagraph 149(5)(*a*)(i) of the said Act is repealed and the following substituted therefor:

(i) a registered pension plan,

(5) Subparagraph 149(5)(*a*)(viii) of the English version of the said Act is repealed and the following substituted therefor:

(viii) an employee benefit plan,

(6) Subsection (1) shall be deemed to have come into force on April 1, 1991.

(7) Subsections (2) to (5) shall be deemed to have come into force on December 17, 1990.

24. (1) Subsection 150(6) of the said Act is amended by adding the word "and" at the end of paragraph (*b*) thereof, by striking out the word "and" at the end of paragraph (*c*) thereof and by repealing paragraph (*d*) thereof.

(2) Section 150 of the said Act is further amended by adding thereto the following subsection:

Mutual insurance group -- deemed election

(7) For the purposes of this Part,

(*a*) every member of a mutual insurance group shall be deemed to be at all times a member of a closely related group of which every other member of the mutual insurance group is a member; and

(*b*) every member of a mutual insurance group shall be deemed to have made, with every other member of the group, an election under subsection (1) that is in effect at all times.

(3) Subsections (1) and (2) shall be deemed to have come into force on December 17, 1990.

25. (1) Section 155 of the said Act is renumbered as subsection 155(1) and is further amended by adding thereto the following subsection:

Exception

(2) Subsection (1) does not apply to a supply included in any of sections 6 to 10 of Part VI of Schedule V.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

26. (1) Subsection 156(3) of the said Act is repealed and the following substituted therefor:

Form and effective date of election and revocation

(3) An election under subsection (1) made jointly by two persons and a revocation of the election shall be made in prescribed form containing prescribed information and shall specify the day in a particular fiscal year of either person (in this subsection referred to as the "filer") on which the election or revocation, as the case may be, takes effect, which day shall be

(*a*) in the case of an election,

(i) where either person becomes a specified member of the group during a reporting period of the filer in the particular fiscal year, the first day of that reporting period, and

(ii) where subparagraph (i) does not apply, the first day of the particular fiscal year; and

(*b*) in the case of a revocation of an election, the first day of a reporting period of the filer that commences in a fiscal year of the filer following the fiscal year in which the election became effective.

(2) All that portion of subsection 156(4) of the said Act preceding paragraph (*a*) thereof is repealed and the following substituted therefor:

Cessation

(4) An election under subsection (1) made jointly by a specified member of a closely related group and a corporation ceases to have effect on the earliest of

(3) Paragraph 156(4)(*c*) of the said Act is repealed and the following substituted therefor:

(*c*) the day on which a revocation of the election by the member or corporation takes effect.

(4) Section 156 of the said Act, as amended by subsections (1) to (3), is repealed and the following substituted therefor:

Meaning of "specified member"

156. (1) In this section, "specified member" of a closely related group means a corporation

(*a*) that is a member of the group;

(*b*) that is not a party to an election under subsection 150(1); and

(*c*) all or substantially all of the property of which was last acquired or imported by the corporation for consumption, use or supply exclusively in the course of commercial activities of the corporation.

Election for nil consideration

(2) For the purposes of this Part, where a specified member of a closely related group elects jointly with a corporation that is also a specified member of the group, every taxable supply (other than a supply by way of lease, licence or similar arrangement of property, or by way of sale of a service, that is not acquired by the recipient of the supply for consumption, use or supply exclusively in the course of commercial activities of the recipient and a supply by way of sale of real property) made between the specified member and the corporation at a time when the election is in effect shall be deemed to have been made for no consideration.

Cessation

(3) An election under subsection (2) made jointly by a person who is a specified member of a closely related group and a corporation ceases to have effect on the earliest of

(*a*) the day the person ceases to be a specified member of the group;

(*b*) the day the corporation ceases to be a specified member of the group; and

(*c*) the day on which a revocation of the election made jointly by the person and corporation takes effect.

Form of election and revocation

(4) An election under subsection (2) and a revocation of the election shall be made in prescribed form containing prescribed information and shall specify the effective date thereof.

(5) Subsections (1) to (3) shall be deemed to have come into force on April 27, 1992.

(6) Subsection (4) shall be deemed to have come into force on THE DAY IMMEDIATELY FOLLOWING ANNOUNCEMENT DATE.

27. (1) Section 157 of the said Act is repealed.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

28. (1) Section 162 of the said Act is repealed and the following substituted therefor:

Natural resources

162. (1) For the purposes of this Part, the supply of

(*a*) a right to explore for or exploit a mineral deposit, a peat bog or deposit of peat or a forestry, water or fishery resource,

(*b*) a right of entry or user relating to a right referred to in paragraph (*a*), or

(*c*) a right to an amount computed by reference to the production (including profit) from, or to the value of production from, any such deposit, bog or resource,

shall be deemed not to be a supply and any consideration paid or due, or any fee or royalty charged or reserved, in respect of the right shall be deemed not to be consideration for the right.

Exception

(2) Subsection (1) does not apply to a supply of a right to take or remove forestry products, fishery products, products that grow in

water, minerals or peat or a right of entry or user relating thereto, where the supply is made to

(*a*) a consumer; or

(*b*) a person who is not a registrant and who acquires the right in the course of a business of the person of making supplies of the products, minerals or peat to consumers.

Rolling stock penalties and demurrage

162.1 For the purposes of this Part, an amount that is paid

(*a*) as or on account of demurrage, or

(*b*) by one railway corporation to another railway corporation as or on account of a penalty for failure to return rolling stock within a stipulated time,

shall be deemed not to be consideration for a supply.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

29. (1) Section 164 of the said Act is repealed and the following substituted therefor:

Donations to charities and registered parties

164. (1) Where a charity or registered party makes a supply of an admission to a fund-raising dinner, ball, concert, show or like fund-raising event, the value of the consideration for the supply shall be deemed to be the lesser of the actual value of the consideration for the supply and the fair market value of the supply.

Meaning of "registered party"

(2) For the purposes of subsection (1), "registered party" means a party, (including any regional or local association of the party), a candidate or a referendum committee governed by an Act of Parliament or the law of a province that imposes requirements relating to election finances or referendum expenses.

Meaning of "feed"

164.1 (1) For the purposes of this section, "feed" means

(*a*) grain, seed or fodder that is described in section 2 of Part IV of Schedule VI and used as feed for farm livestock that is ordinarily raised or kept to produce, or to be used as, food for human consumption or to produce wool; and

(*b*) feed that is a complete feed, supplement, macro-premix or micro-premix, the supply of which in bulk quantity of at least 20 kg would be a zero-rated supply.

Supplies by a feedlot

(2) For the purposes of this Part, where, in the course of operating a feedlot that is a farming business within the meaning of the *Income Tax Act*, a person makes a supply of a service and the consideration for the supply (in this subsection referred to as the "total charge") includes a particular amount that is identified in the invoice or agreement in writing for the supply as being attributable to feed,

(*a*) the provision of the feed shall be deemed to be a supply separate from the supply of the service and not to be incidental to the provision of any other property or service;

(*b*) that portion, not exceeding 90%, of the total charge that is reasonably attributable to the feed and is included in the particular amount shall be deemed to be the consideration for the supply of the feed; and

(*c*) the difference between the total charge and the consideration for the supply of the feed shall be deemed to be the consideration for the supply of the service.

Payments by unions or associations

164.2 For the purposes of this Part, where

(*a*) an individual, because of membership in a trade union or association referred to in paragraph 189(*a*), participates in activities of the union or association and, as a consequence, is unable to provide services, under a contract of employment, to the individual's employer during a period during which the individual would, were it not for the individual's participation in those activities, be obligated to provide such services, and (*b*) the union or association pays an amount to the employer as compensation for expenses incurred by the employer as a consequence of the individual's participation in those activities or for remuneration or benefits given by the employer to the individual in respect of that period,

the amount shall be deemed not to be consideration for a supply.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990 except that subsection 164(1) of the said Act, as enacted by subsection (1), does not apply to admissions, supplied by a registered party, to events held before November 5, 1991 in respect of an election other than an election for a member of Parliament or of a legislature of a province.

30. (1) Subsection 165(3) of the said Act is amended by striking out the word "and" at the end of paragraph (*a*) thereof and by repealing paragraph (*b*) thereof and substituting the following therefor:

(*b*) $0.05 where the total amount deposited for the supply is $0.70; and

(*c*) in any other case, the amount computed in accordance with subsection (1) except that where that amount is the total of a multiple of $0.05 and a fraction of $0.05, the fraction

(i) if less than $0.025, may be disregarded for the purposes of this section, and

(ii) if equal to or greater than $0.025, shall be deemed, for the purposes of this section, to be an amount equal to $0.05.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

31. (1) Subsection 167(1) of the said Act is repealed and the following substituted therefor:

Supply of assets of business

167. (1) Where a supplier makes a supply of a business or part of a business that was established or carried on by the supplier and, under the agreement for the supply, the recipient is acquiring ownership, possession or use of all or substantially all of the property that can reasonably be regarded as being necessary for the recipient to carry on the business or part thereof as a business, the following rules apply:

(*a*) for the purposes of this Part, the supplier shall be deemed to have made a separate supply of each property and service that is supplied under the agreement for consideration equal to that part of the consideration for the supply of the business or part of the business that can reasonably be attributed to that property or service;

(*b*) no tax is payable in respect of a supply of any property or service made under the agreement other than

(i) a taxable supply of a service that is to be rendered by the supplier;

(ii) a taxable supply of property by way of lease, licence or similar arrangement; and

(iii) where the recipient is not a registrant, a taxable supply by way of sale of real property;

(*c*) for the purposes of this Part,

(i) where, but for this subsection, tax would have been payable by the recipient in respect of a supply made under the agreement of property that was capital property of the supplier and is being acquired by the recipient for use as capital property of the recipient, the recipient shall be deemed to have so acquired the property for use exclusively in the course of commercial activities of the recipient, and

(ii) where, notwithstanding this subsection, tax would not have been payable by the recipient in respect of a supply made under the agreement of property that was capital property of the supplier and is being acquired by the recipient for use as capital property of the recipient, the recipient shall be deemed to have so acquired the property for use exclusively in activities of the recipient that are not commercial activities; and

(*d*) where the supplier is a registrant, the supplier shall file with the Minister in prescribed manner a notice respecting the supply, in prescribed form containing prescribed information, not later than the day on or before which the return under this Division is required to be filed for the supplier's first reporting period in which tax would, but for this subsection, have become payable in respect of the supply.

Exception

(1.1) Subsection (1) does not apply to a supply of all or part of a business where the supplier is a registrant and the recipient is not a registrant.

(2) Paragraph 167(2)(*d*) of the said Act, as amended by subsection (2), is further repealed and the following substituted therefor:

(*d*) the personal representative and the other individual jointly elect under this subsection,

(3) Subsection 167(2) of the said Act, as amended by subsection (2), is further amended by adding the word "and" at the end of paragraph (*b*) thereof, by striking out the word "and" at the end of paragraph (*c*) thereof and by repealing paragraph (*d*) thereof.

(4) Subsection (1) applies to any supply of a business or part of a business under which ownership or possession of all or substantially all of the assets of the business or part thereof that are included in the supply is transferred to the recipient of the supply after ANNOUNCEMENT DATE.

(5) Subsection (2) shall be deemed to have come into force on April 27, 1992.

(6) Subsection (3) shall be deemed to have come into force on ANNOUNCEMENT DATE.

32. (1) The said Act is further amended by adding thereto, immediately after section 167 thereof, the following section:

Supply of goodwill

167.1 For the purposes of this Part, where a person other than a financial institution makes a supply of a business, or a part of a business, carried on by the person in Canada, the recipient is acquiring the business or part for the purpose of carrying on the business or part as a business of the recipient and part of the consideration for the supply can reasonably be attributed to goodwill of the business or part of the business, (*a*) where the goodwill is primarily attributable to commercial activities of the person, that part of the consideration shall not be included in calculating the tax payable in respect of the supply except to the extent that the goodwill is attributable to those commercial activities; and

(*b*) in any other case, that part of the consideration shall not be included in calculating the tax payable in respect of the supply.

(2) Section 167.1 of the said Act, as enacted by subsection (1), is repealed and the following substituted therefor:

Goodwill

167.1 For the purposes of this Part, where a person makes a supply of a business, or a part of a business, carried on by the person in Canada, the recipient is acquiring the business or part for the purpose of carrying on the business or part as a business of the recipient and part of the consideration for the supply can reasonably be attributed to goodwill of the business or part,

(*a*) where the person is a financial institution, that part of the consideration shall not be included in calculating the tax payable in respect of the supply except to the extent that the goodwill is attributable to commercial activities of the person;

(*b*) where the person is not a financial institution and the goodwill is primarily attributable to commercial activities of the person, that part of the consideration shall not be included in calculating the tax payable in respect of the supply except to the extent that the goodwill is attributable to those commercial activities; and

(*c*) in any other case, that part of the consideration shall not be included in calculating the tax payable in respect of the supply.

(3) Section 167.1 of the said Act, as enacted by subsection (2), is repealed and the following substituted therefor:

Goodwill

167.1 For the purposes of this Part, where a person makes a supply of a business or part of a business of the person, the recipient is acquiring the business or part for the purpose of carrying on the business or part as a business of the recipient and part of the consideration for the supply can reasonably be attributed to goodwill of the business or part, that part of the consideration shall not be included in calculating the tax payable in respect of the supply.

(4) Subsection (1) applies to a supply of a business or part of a business under which ownership or possession of all or substantially all of the assets of the business or part that are included in the supply is transferred to the recipient of the supply after November 5, 1991.

(5) Subsection (2) applies to a supply of a business or part of a business under which ownership or possession of all or substantially all of the assets of the business or part that are included in the supply is transferred to the recipient of the supply after March 10, 1992.

(6) Subsection (3) applies to a supply of a business or part of a business under which ownership or possession of all or substantially all of the assets of the business or part that are included in the supply is transferred to the recipient of the supply after ANNOUNCEMENT DATE.

33. (1) The said Act is further amended by adding thereto, immediately after section 167.1 thereof, as enacted by section 32, the following section:

Supplies to non-resident persons of admissions to conventions

167.2 (1) Where the sponsor of a convention makes a taxable supply to a non-resident person of an admission to the convention, that portion of the consideration for the admission that is reasonably attributable to the provision of the convention facility or related convention supplies shall not be included in calculating the tax payable in respect of the supply.

Supplies to non-resident exhibitors

(2) Where a sponsor of a convention makes a taxable supply by way of lease, licence or similar arrangement to a non-resident person of real property that is acquired by the person exclusively for use as a site for the promotion, at the convention, of property or services supplied by, or a business of, the person, no tax is payable in respect of that supply to the person or in respect of any supply by the sponsor to the person of property or services that are acquired by the person for consumption or use as related convention supplies in respect of the convention.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

34. (1) Subsections 169(1) to (3) of the said Act are repealed and the following substituted therefor:

General rule for credits

169. (1) Subject to this Part, where property or a service is supplied to or imported by a person and, during a reporting period of the person during which the person is a registrant, tax in respect of the supply or importation becomes payable by the person or is paid by the person without having become payable, the input tax credit of the person in respect of the property or service for the period is the amount determined by the formula

$$A \times B$$

where

A is the total of all tax in respect of the supply or importation that became payable by the person during the reporting period or was paid by the person during the period without having become payable; and

B is

(*a*) where the tax is deemed under subsection 202(4) to have been paid in respect of the property on the last day of a taxation year of the person, the extent (expressed as a percentage of the total use of the property in the course of commercial activities and businesses of the person during that taxation year) to which the person used the property in the course of commercial activities of the person during that taxation year,

(b) where the property or service was acquired or imported by the person for use in improving capital property of the person, the extent (expressed as a percentage) to which the person last acquired or imported the capital property for use in the course of commercial activities of the person, and

(*c*) in any other case, the extent (expressed as a percentage) to which the person intended, at the time the property or service was acquired or imported by the person, to consume, use or supply the property or service in the course of commercial activities of the person.

Determining credit for improvement

(1.1) Where a person acquires or imports property or a service partly for use in improving capital property of the person and partly for another purpose, for the purposes of determining an input tax credit of the person in respect of the property or service,

(a) the provision of that part of the property or service that is acquired or imported for use in improving the capital property and the provision of the remaining part of the property or service shall each be deemed to be a separate supply that is not incidental to the other;

(b) the tax payable in respect of the supply of that part of the property or service that is acquired or imported for use in improving the capital property shall be deemed to be equal to the amount determined by the formula

$$A \times B$$

where

A is the tax payable (in this section referred to as the "total tax payable") by the person in respect of the supply or importation of the property or service, determined without reference to this section, and

B is the extent (expressed as a percentage) to which the total consideration paid or payable by the person for the supply in Canada of the property or service or the value of the imported goods is or would be, if the person were a taxpayer under the *Income Tax Act*, included in determining the adjusted cost base to the person of the capital property for the purposes of that Act; and

(c) the tax payable in respect of that part of the property or service that is not for use in improving the capital property shall be deemed to be equal to the difference between the total tax payable and the amount determined under paragraph (b).

Determining credit for leased property

(1.2) Where property is supplied by way of lease, licence or similar arrangement to a person for consideration that includes two or more periodic payments that are attributable to successive parts (each of which is referred to in this subsection as a "lease interval") of the period for which possession or use of the property is provided under the arrangement and, during a reporting period of the person, tax in respect of the supply, calculated on a particular periodic payment, becomes payable by the person or is paid by the person without having become payable, for the purposes of determining an input tax credit of the person in respect of the property for the reporting period,

(*a*) the person shall be deemed to have received, at the beginning of the lease interval to which the particular periodic payment is attributable, a separate supply of the property for that lease interval; and

(*b*) the tax calculated on the particular periodic payment shall be deemed to be tax payable in respect of the separate supply.

Determining credit for ongoing services

(1.3) Where a service is supplied to a person for consideration that includes two or more payments that are attributable to different parts (each of which is referred to in this subsection as a "billing period") of the period during which the service is or is to be rendered under the agreement for the supply and, during a reporting period of the person, tax in respect of the supply, calculated on a particular payment, becomes payable by the person or is paid by the person without having become payable, for the purposes of determining an input tax credit of the person in respect of the service for the reporting period,

(*a*) the person shall be deemed to have received, at the beginning of the billing period to which the particular payment is attributable, a separate supply of the service rendered or to be rendered during that billing period; and

(*b*) the tax calculated on the particular payment shall be deemed to be tax payable in respect of the separate supply.

Credit for goods imported to provide commercial service

(2) Subject to this Part, where a registrant imports goods of a non-resident person who is not registered under Subdivision d of Division V for the purpose of making a taxable supply to the non-resident person of a commercial service in respect of the goods and, during a reporting period of the registrant, tax in respect of the importation becomes payable by the registrant or is paid by the registrant without having become payable, the input tax credit of the registrant in respect of the goods for the reporting period is an amount equal to that tax.

Time tax payable

(3) For the purposes of subsections (1) to (1.3), where an invoice for an amount is issued to a person in respect of a taxable supply made in Canada to the person, except where subsection 152(2) applies to the supply, tax under this Division calculated on that amount shall be deemed to have become payable on the date of the invoice.

(2) All that portion of subsection 169(4) of the said Act preceding paragraph (*a*) thereof is repealed and the following substituted therefor:

Required documentation

(4) A registrant may not claim an input tax credit for a reporting period unless, before filing the return in which the credit is claimed,

(3) Paragraph 169(4)(*b*) of the said Act is repealed and the following substituted therefor:

(*b*) where the credit is in respect of real property supplied by way of sale to the registrant in circumstances in which subsection 221(2) applies, the registrant has filed the return required to be filed under subsection 228(4) with respect to the supply.

(4) All that portion of subsection 169(5) of the said Act preceding paragraph (*b*) thereof is repealed and the following substituted therefor:

Exemption

(5) Where the Minister is satisfied that there are or will be sufficient records available to establish the particulars of any supply or importation or of any supply or importation of a specified class and the tax in respect of the supply or importation paid or payable under this Part, the Minister may

(*a*) exempt a specified registrant, a specified class of registrants or registrants generally from any of the requirements of subsection (4) in respect of that supply or importation or a supply or importation of that class; and

(5) Subsection (1) shall be deemed to have come into force on December 17, 1990 except that

(a) in its application to property in respect of which tax is deemed under subsection 202(4) of the said Act to have been paid in a taxation year ending on or before ANNOUNCEMENT DATE, paragraph (a) of the description of B in subsection 169(1) of the said Act, as enacted by subsection (1), shall be read as follows:

(a) where the tax is deemed under subsection 202(4) to have been paid in respect of the property on the last day of a taxation year of the person, the percentage that the intended use of the property in commercial activities of the person is of the intended use of the property in commercial activities and businesses of the person,

(b) in its application to improvements to capital property of a person that are acquired or imported by the person before April 1991, the description of B in subsection 169(1) of the said Act, as enacted by subsection (1), shall be read as follows:

B is the extent (expressed as a percentage) to which the person intended, at the time the property or service was acquired or imported by the person, to consume, use or supply the property or service in the course of commercial activities of the person.

(c) subsection 169(1.1) of the said Act, as enacted by subsection (1), does not apply to property or services acquired or imported on or before ANNOUNCEMENT DATE by a person partly for use in improving capital property of the person; and

(d) in applying subsection 169(3) of the said Act, as enacted by subsection (1), to invoices dated on or before ANNOUNCEMENT DATE, it shall be read without reference to the words "except where subsection 152(2) applies to the supply".

(6) Subsections (2) to (4) shall be deemed to have come into force on ANNOUNCEMENT DATE.

35. (1) Paragraph 170(1)(*a*) of the said Act is repealed and the following substituted therefor:

(*a*) a supply of a membership, or a right to acquire a membership, in a club the main purpose of which is to provide dining, recreational or sporting facilities, except where the registrant acquires the membership or right, as the case may be, exclusively for supply in the ordinary course of a business of the registrant of supplying such memberships or rights;

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990 except that paragraph 170(1)(*a*) of the said Act, as enacted by subsection (1), does not apply to a supply of a right to acquire a membership where the right is acquired by the recipient of the supply on or before ANNOUNCEMENT DATE.

36. (1) Subsection 171(1) of the said Act is repealed and the following substituted therefor:

Person becoming registrant

171. (1) Where at any time a person becomes a registrant and immediately before that time the person was a small supplier, for the purpose of determining an input tax credit of the person, the person shall be deemed

(*a*) to have received, at that time, a supply by way of sale of each property of the person that was held immediately before that time for consumption, use or supply in the course of commercial activities of the person; and

(*b*) to have paid, at that time, tax in respect of the supply equal to the amount determined by the formula

$$A \times B$$

where

A is the lesser of

(i) the total (in this subsection referred to as the "total tax charged in respect of the property") of the tax that, before that time, became payable or was paid by the person in respect of the last acquisition or importation of the property by the person and the tax that, before that time, became payable or was paid by the person in respect of improvements to the property acquired or imported by the person after the property was last so acquired or imported, and

(ii) tax calculated on the fair market value of the property at that time, and

B is

(i) where the person was entitled to claim a rebate under section 259 in respect of any tax included in the total tax charged in respect of the property, the difference between 100% and the percentage prescribed for the purposes of that section that applied in determining the amount of that rebate, and

(ii) in any other case, 100%.

(2) Subsection 171(3) of the said Act is repealed and the following substituted therefor:

Properties on ceasing to be registrant

(3) For the purposes of this Part, where a person ceases at any time to be a registrant,

(*a*) the person shall be deemed

(i) to have made, immediately before that time, a supply of each property of the person (other than capital property) that immediately before that time was held by the person for consumption, use or supply in the course of commercial activities of the person and to have collected, immediately before that time, tax in respect of the supply, calculated on the fair market value of the property at that time, and

(ii) to have received, at that time, a supply of the property by way of sale and to have paid, at that time, tax in respect of the supply equal to the amount determined under subparagraph (i); and

(*b*) where the person was, immediately before that time, using capital property of the person in commercial activities of the person, the person shall be deemed to have, immediately before that time, ceased using the property in commercial activities.

(3) Section 171 of the said Act is further amended by adding thereto the following subsection:

Exception

(5) Subsections (1) to (4) do not apply where section 171.1 applies.

(4) Subsections (1) and (3) shall be deemed to have come into force on THE DAY IMMEDIATELY FOLLOWING ANNOUNCEMENT DATE.

(5) Subsection (2) shall be deemed to have come into force on December 17, 1990.

37. (1) The said Act is further amended by adding thereto, immediately after section 171 thereof, the following heading and section:

Taxi Businesses

Small suppliers

171.1. (1) Where at any time a person who is a small supplier is engaged in a taxi business and other commercial activities in Canada, other than the supply by way of sale of real property, and the registration of the person under this Part does not apply to those other activities,

(*a*) the person shall be deemed, for the purposes of this Part, not to be a registrant at that time except in respect of that business and anything done by the person in the course thereof or in connection therewith; and

(*b*) for the purposes of section 169 and Subdivision d, those other activities shall be deemed not to be commercial activities of the person at that time.

Becoming a registrant for other activities

(2) Where at any time a person is engaged in a taxi business and other commercial activities in Canada, other than the supply by way of sale of real property, and the person's registration under this Part begins, at that time, to apply to those other activities, the following rules apply:

(*a*) for the purpose of determining an input tax credit of the person, the person shall be deemed to have received, at that time, a supply by way of sale of each property of the person, other than capital property, that was held immediately before that time for consumption, use or supply in the course of those other activities and to have paid, at that time, tax in respect of the supply equal to the lesser of

(i) the tax that, before that time, became payable or was paid by the person in respect of the last acquisition or importation of the property by the person, and

(ii) tax calculated on the fair market value of the property at that time; and

(*b*) for the purpose of determining the input tax credits of the person for the reporting period that includes that time, there may be included the total of any tax that became payable by the person before that time, to the extent that the tax is calculated on consideration, or a part thereof, that is

(i) reasonably attributable to a service that is to be rendered to the person after that time and that was acquired or imported by the person for consumption, use or supply in the course of those other activities, or

(ii) a rent, royalty or similar payment in respect of property reasonably attributable to a period after that time during which the property is used in the course of those other activities.

Ceasing to be a registrant for other activities

(3) Where at any time a person is engaged in a taxi business and other commercial activities in Canada, other than the supply by way of sale of real property, and the person's registration under this Part ceases, at that time, to apply to those other activities, the following rules apply:

(*a*) for the purposes of this Part, the person shall be deemed

(i) to have made, immediately before that time, a supply of each property of the person, other than capital property, that was held immediately before that time for consumption, use or supply in the course of those other activities, and to have collected, immediately before that time, tax in respect of the supply calculated on the fair market value of the property at that time, and

(ii) to have received, at that time, a supply of the property by way of sale and to have paid, at that time, tax in respect of the supply equal to the amount determined under subparagraph (i);

(*b*) in determining the input tax credits of the person for the reporting period that includes that time, there may be included tax that becomes payable by the person after that time, to the extent that the tax is calculated on consideration, or a part thereof, that is

(i) reasonably attributable to services that were rendered to the person before that time and that were acquired or imported by the person for consumption, use or supply in the course of those other activities, or

(ii) a rent, royalty or similar payment in respect of property reasonably attributable to a period before that time during which the property was used in the course of those other activities; and

(*c*) where, in determining an input tax credit claimed by the person in a return under section 238 for a reporting period of the person ending before that time, there was included an amount in respect of tax calculated on consideration, or a part thereof, that is

(i) reasonably attributable to services to be rendered to the person after that time, or

(ii) a rent, royalty or similar payment in respect of property reasonably attributable to a period (in this paragraph referred to as the "lease period") after that time,

the amount shall be added in determining the net tax for the reporting period of the person that includes that time, to the extent to which the property is used by the person during the lease period, or the services were acquired or imported by the person for consumption, use or supply, in the course of those other activities.

(2) Subsection (1) shall be deemed to have come into force on THE DAY IMMEDIATELY FOLLOWING ANNOUNCEMENT DATE.

38. (1) All that portion of subsection 172(2) of the English version of the said Act preceding paragraph (*a*) thereof is repealed and the following substituted therefor:

Benefits to shareholders, etc.

(2) For the purposes of this Part, where at any time a registrant that is a corporation, partnership, trust, charity or non-profit organization appropriates any property (other than capital property of the registrant) that was acquired, manufactured or produced, or any service acquired or performed, in the course of commercial activities of the registrant, to or for the benefit of a shareholder, partner, beneficiary or member of the registrant or any individual related to such a shareholder, partner, beneficiary or member, in any manner whatever (otherwise than by way of a supply made for consideration equal to the fair market value of the property or service), the registrant shall be deemed

(2) Subsection 172(3) of the said Act is repealed and the following substituted therefor:

Application

(3) This section does not apply to property or a service appropriated by a registrant to or for the benefit of a person where

(*a*) the registrant was, because of section 170, not entitled to claim an input tax credit in respect of the last acquisition or importation of the property or service by the registrant; or

(*b*) section 173 applies to the property or service so appropriated for the purpose of making it available to the person.

(3) Subsections (1) and (2) shall be deemed to have come into force on December 17, 1990.

39. (1) Sections 173 and 174 of the said Act are repealed and the following substituted therefor:

Employee and shareholder benefits

173. (1) Where

(*a*) a registrant at any time supplies to a person property or a service, (*b*) the supply is not an exempt supply, and

(*c*) an amount (in this subsection referred to as the "benefit amount") in respect of the property or service is required under paragraph 6(1)(*a*) or (*e*) or subsection 15(1) of the *Income Tax Act* to be included in computing the person's income for a taxation year of the person,

the following rules apply:

(*d*) in the case of a supply of property otherwise than by way of sale, the use made by the registrant in so providing the property to the person shall be deemed, for the purposes of this Part, to be use in commercial activities of the registrant, and to the extent that the registrant acquired the property for the purpose of making that supply, the registrant shall be deemed, for the purposes of this Part, to have so acquired the property for use in commercial activities of the registrant, and

(*e*) in any case, except where

(i) the registrant was, because of section 170, not entitled to claim an input tax credit in respect of the last acquisition or importation of the property or service by the registrant,

(ii) an election under subsection (2) by the registrant in respect of the property is in effect at that time,

(iii) the registrant is an individual or partnership and the property is a passenger vehicle or aircraft of the registrant that is not used by the registrant exclusively in commercial activities of the registrant, or

(iv) the registrant is not an individual, partnership or financial institution and the property is a passenger vehicle or aircraft of the registrant that is not used by the registrant primarily in commercial activities of the registrant,

for the purposes of determining the net tax of the registrant,

(v) the registrant shall be deemed to have made that supply to the person for consideration equal to the total of the consideration, if any, for the supply otherwise determined and the amount (in this paragraph referred to as the "adjusted benefit") by which the benefit amount exceeds the amount, if any, included in the benefit amount that can reasonably be attributed to tax imposed under an Act of the legislature of a province that is a prescribed tax for the purposes of section 154, and

(vi) tax calculated on the adjusted benefit shall be deemed to have become collectible, and to have been collected, by the registrant

(A) in the case of a supply in respect of which an amount is required under paragraph 6(1)(*a*) or (*e*) of the *Income Tax Act* to be included in computing the person's income for a particular taxation year of the person, on the last day of February of the year immediately following the particular taxation year, and

(B) in the case of a supply in respect of which an amount is required under subsection 15(1) of that Act to be included in computing the person's income, on the last day of the registrant's taxation year in which the property or service is so supplied to the person.

Election in respect of passenger vehicle or aircraft

(2) Where,

(*a*) in a reporting period of a registrant other than a financial institution, the registrant acquires a passenger vehicle or aircraft by way of lease for use otherwise than primarily in commercial activities of the registrant or the registrant uses, otherwise than primarily in commercial activities of the registrant, a passenger vehicle or aircraft that was last acquired by the registrant by way of lease, or

(*b*) in a reporting period of a registrant that is a financial institution, the registrant acquires a passenger vehicle or aircraft by way of purchase or lease or uses a passenger vehicle or aircraft that was last so acquired by the registrant,

the registrant may make an election under this subsection in respect of the vehicle or aircraft to take effect on the first day of that reporting period of the registrant.

Effect of election

(3) For the purposes of this Part, where an election made by a registrant under subsection (2) in respect of property becomes effective on a day in a particular reporting period of the registrant,

(*a*) notwithstanding paragraph (1)(*d*), the registrant shall be deemed to have begun, on that day, to use the property exclusively in activities of the registrant that are not commercial activities and at all times thereafter until the registrant next disposes of or ceases to lease the property, the registrant shall be deemed to use the property exclusively in activities of the registrant that are not commercial activities,

(*b*) where the property was last supplied to the registrant by way of lease,

(i) there shall not be included, in determining an input tax credit claimed by the registrant in the return under section 238 for the particular or any subsequent reporting period, tax calculated on consideration, or a part thereof, for that supply that is reasonably attributable to a period after that day, and

(ii) where an amount in respect of any tax referred to in subparagraph (i) was included in determining an input tax credit claimed by the registrant in a return under section 238 for a reporting period ending before the particular reporting period, that amount shall be added in determining the net tax of the registrant for the particular reporting period; and

(*c*) where the property was last supplied to the registrant by way of sale, the registrant is a financial institution and the cost of the property to the registrant did not exceed $50,000,

(i) there shall not be included, in determining an input tax credit claimed by the registrant in the return under section 238 for the particular or any subsequent reporting period, tax that is calculated on consideration, or a part thereof, for that supply or that is in respect of an improvement to the property acquired or imported by the registrant after the property was last so acquired, and

(ii) where an amount in respect of any tax referred to in subparagraph (i) was included in determining an input tax credit claimed by the registrant in a return under section 238 for a reporting period of the registrant ending before the particular reporting period, that amount shall be added in determining the net tax of the registrant for the particular reporting period.

Form of election

(4) An election made under subsection (2) shall be made in prescribed form containing prescribed information.

Travel and other allowances

174. For the purposes of this Part, where

(*a*) a person pays, at any time, an allowance to an employee of the person or, where the person is a partnership, to a member of the partnership

(i) for supplies all or substantially all of which are taxable supplies (other than zero-rated supplies) of property or services acquired in Canada by the employee or member in relation to an activity engaged in by the person, or

(ii) for the use in Canada, in relation to an activity engaged in by the person, of a motor vehicle,

(*b*) an amount in respect of the allowance is deductible in computing the income of the person for a taxation year of the person for the purposes of the *Income Tax Act* or would have been so deductible if the person were a taxpayer under that Act and the activity were a business, and

(*c*) in the case of an allowance to which subparagraph 6(1)(*b*)(v), (vi), (vii) or (vii.1) of that Act would apply if the allowance were a reasonable allowance for the purposes of that subparagraph, it is reasonable for the person to consider, at that time, the allowance to be a reasonable allowance for those purposes,

the person shall be deemed to have received a taxable supply of a service for use in commercial activities of the person to the same extent as the property or service acquired by the employee or member is for consumption or use in relation to a commercial activity of the person and to have paid, at that time, tax in respect of the supply equal to the tax fraction of the allowance.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990, except that

(*a*) subsection 173(3) of the said Act, as enacted by subsection (1), shall be read without reference to paragraph (*b*) thereof in its application to property in respect of which an election under subsection 173(2) of the said Act, as enacted by subsection (1), is made before April 1991; and

(*b*) with respect to an election under that subsection by a person that is to become effective in a reporting period of the person ending before April 27, 1992, subsection 173(4) of the said Act, as enacted by subsection (1), shall be read as follows:

(4) An election made under subsection (2) by a person shall

(*a*) be made in prescribed form containing prescribed information; and

(*b*) be filed with the Minister in prescribed manner with the return under section 238 for the reporting period of the person in which the election is to take effect.

40. (1) All that portion of subsection 176(1) of the said Act following paragraph (*b*) thereof is repealed and the following substituted therefor:

for the purposes of this Part, the registrant shall be deemed (except where the supply is a zero-rated supply or where section 167 applies to the supply) to have paid, at the time any amount is paid as consideration for the supply, tax in respect of the supply equal to the tax fraction of that amount.

(2) All that portion of subsection 176(2) of the said Act preceding paragraph (*c*) thereof is repealed and the following substituted therefor:

Export

(2) Where

(*a*) a registrant at any time before 1994 makes a zero-rated supply, or a supply outside Canada, by way of sale of used tangible personal property and the registrant or any person with whom the registrant was not dealing at arm's length is deemed under subsection (1) to have paid tax in respect of the property, or

(*b*) a registrant at any time makes a zero-rated supply, or a supply outside Canada, by way of sale of used specified tangible personal property that the registrant acquired by way of purchase for consideration that exceeds the prescribed amount in respect of the property and the registrant paid tax or would, but for section 156 or 167, have been required to pay tax in respect of the acquisition of the property, for the purposes of this Part, the following rules apply:

(3) Subsection 176(3) of the said Act is repealed and the following substituted therefor:

Returnable containers

(3) Where a registrant is the recipient of a supply of a usual covering or container of a class of covering or container in which property (other than property the supply of which is a zero-rated supply) is delivered, subsection (1) does not apply unless the registrant pays to the supplier consideration for the supply not less than the total of

(*a*) the consideration that the registrant charges for supplies by the registrant of used coverings or containers of that class; and

(*b*) tax calculated on that consideration.

(4) Subsection 176(4) of the said Act is repealed and the following substituted therefor:

Consideration exceeding fair market value

(4) For the purposes of subsection (1), where a person makes a supply of used tangible personal property to a registrant with whom the person is not dealing at arm's length for consideration that exceeds the fair market value of the property at the time ownership of the property is transferred to the registrant, the value of the consideration for the supply shall be deemed to be equal to the fair market value of the property at that time.

(5) Section 176 of the said Act is further amended by adding thereto, immediately after subsection (4) thereof, the following subsection:

Consideration less than fair market value

(4.1) For the purposes of subsection (2), where a registrant makes a taxable supply by way of sale of used tangible personal property to a recipient with whom the registrant is not dealing at arm's length for no consideration or for consideration that is less than the fair market value of the property at the time the ownership of the property is transferred to the recipient, except where section 155 applies to the supply, the recipient shall be deemed to have paid tax in respect of the supply calculated on that fair market value.

(6) Subsections (1) and (2) shall be deemed to have come into force on December 17, 1990.

(7) In applying subsection 176(2) of the said Act, as amended by subsection (2), to supplies of used specified tangible personal property made before September 15, 1992 subsection 176(2) shall be read without reference to

(*a*) the word "or" at the end of paragraph (*a*) thereof;

(*b*) paragraph (*b*) thereof;

(*c*) the words "other than used specified tangible personal property" in subparagraph (*d*)(i) thereof;

(*d*) the word "and" at the end of subparagraph (*d*)(i) thereof; and

(*e*) subparagraph (*d*)(ii) thereof.

(8) Subsection (3) shall be deemed to have come into force on THE DAY IMMEDIATELY FOLLOWING ANNOUNCEMENT DATE.

(9) Subsection (4) applies to all supplies of property except a supply all or part of the consideration for which is paid by the recipient of the supply on or before ANNOUNCEMENT DATE.

(10) Subsection (5) does not apply to supplies of property the ownership of which is transferred to the recipient before March 28, 1991.

41. (1) Subsection 177(1) of the said Act is repealed and the following substituted therefor:

Supply on behalf of registrant

177. (1) For the purposes of this Part, where a registrant (in this subsection referred to as the "agent"), acting as agent of another registrant (in this subsection referred to as the "principal") in the course of a commercial activity of the agent, makes a taxable supply (otherwise than by auction) of property or a service on behalf of the principal to a recipient and the agent does not disclose to the recipient in writing the name of the principal and the registration number assigned to the principal under Subdivision d of Division V, (*a*) the principal shall be deemed not to have made the supply to the recipient;

(*b*) the agent shall be deemed to have made the supply to the recipient and not to have made a supply to the principal of services relating to the supply to the recipient;

(*c*) the principal shall be deemed to have made a supply of the property or service to the agent and the agent shall be deemed to have received that supply from the principal; and

(*d*) where a particular amount of consideration for the supply of the property or service to the recipient becomes due or is paid and at one or more times the agent remits to, or credits in favour of, the principal an amount on account of the particular amount, the agent shall be deemed to have paid, and the principal shall be deemed to have received, at the earliest of those times, consideration for the supply deemed under paragraph (*c*) to have been made to the agent equal to the amount determined by the formula

$$A - B$$

where

A is the particular amount, and

B is the consideration that has become due or been paid for the supply that, but for this subsection, would be made by the agent to the principal of services relating to the supply to the recipient or, where the supply to the recipient was made by way of lease, licence or similar arrangement, the portion of that consideration that is reasonably attributable to the period to which the particular amount relates and that has not been attributed to a preceding period.

Supply for person not required to collect tax

(1.1) Where

(*a*) a registrant (in this subsection referred to as the "agent"), acting as agent of a person (in this subsection referred to as the "principal") in the course of a commercial activity of the agent, makes a supply of personal property (otherwise than by auction) on behalf of the principal, (*b*) the principal is not required to collect tax in respect of the supply, and

(*c*) the agent does not disclose in writing to the recipient of the supply that the agent is making the supply on behalf of another person who is not required to collect tax in respect of the supply,

the following rules apply for the purposes of this Part:

(*d*) the principal shall be deemed not to have made the supply to the recipient,

(*e*) the agent shall be deemed to have made the supply to the recipient and not to have made a supply to the principal of services relating to the supply to the recipient, and

(*f*) where at one or more times the agent remits to, or credits in favour of, the principal an amount on account of the supply to the recipient, the principal shall be deemed to have made a supply of the property to the agent, and the agent shall be deemed to have received that supply from the principal, for consideration, paid at the earliest of those times, equal to the amount determined by the formula

$$A - B$$

where

A is the total of the consideration for the supply of the property to the recipient and the tax payable in respect of that supply, and

B is the total of the consideration for the supply that, but for this subsection, would be made by the agent to the principal of services relating to the supply to the recipient and the tax, calculated on that consideration, that would, but for this subsection, be payable by the principal.

Supply by auctioneer

(1.2) Where a registrant (in this subsection referred to as the "auctioneer"), acting as auctioneer and agent for another person (in this subsection referred to as the "principal") in the course of a commercial activity of the auctioneer, makes, on behalf of the principal, (*a*) a supply by auction of personal property, or

(*b*) where the principal is a registrant, a taxable supply by auction of real property or of a service,

the following rules apply for the purposes of this Part:

(*c*) the supply shall be deemed to have been made by the auctioneer and not by the principal, and

(*d*) where at one or more times the auctioneer remits to, or credits in favour of, the principal an amount on account of the supply to the recipient, the principal shall be deemed to have made a supply of the property or service to the auctioneer, and the auctioneer shall be deemed to have received that supply from the principal, for consideration, paid at the earliest of those times, equal to

(i) where tax is not payable in respect of the supply deemed to have been made by the principal, the total of the consideration for the supply to the recipient and the tax payable by the recipient in respect of that supply, and

(ii) in any other case, the consideration for the supply to the recipient.

Application of section 176

(1.3) Where a registrant makes a supply of personal property on behalf of a person in circumstances in which the registrant is deemed, under subsection (1.1) or (1.2), to have received a supply of the property from the person and to have paid consideration equal to a particular amount determined under paragraph (1.1)(*f*) or subparagraph (1.2)(*d*)(i),

(*a*) for the purposes of section 176, the property shall be deemed to be used tangible personal property; and

(*b*) that section does not apply to the supply deemed to have been received by the registrant unless the registrant remits to, or credits in favour of, the person an amount on account of the supply of the property made on the person's behalf equal to

(i) where subsection (1.1) applies, the particular amount, and

(ii) where subsection (1.2) applies, the amount, if any, by which the particular amount exceeds the consideration for the supply that, but for that subsection, would be made by the registrant to the person of services relating to the supply of the property made on the person's behalf.

Manner of supplying property

(1.4) For the purposes of this section, where a registrant makes a supply of property or a service on behalf of a person by way of sale or in any other manner, any supply of the property or service that is, as a result, deemed under this section to have been made by the person to the registrant shall be deemed to have been made in the same manner.

(2) Subsection (1) applies to supplies made after April 1991 by a registrant on behalf of a person except that, in respect of such supplies made after April 1991 and before 1993, the reference in subsection 177(1.3) of the said Act, as enacted by subsection (1), to "paragraph (1.1)(*f*)" shall be read as a reference to "paragraph (1.1)(*c*)" and subsections 177(1) and (1.1) of the said Act, as enacted by subsection (1), shall be read as follows:

177. (1) For the purposes of this Part, where at any time a registrant (in this subsection referred to as the "agent"), acting as agent of another registrant (in this subsection referred to as the "principal") in the course of a commercial activity of the agent, makes a taxable supply (otherwise than by auction) of property or a service on behalf of the principal to a recipient and the agent does not enter into a written agreement with the recipient, or issue an invoice for the supply, in the name of the principal,

(*a*) the principal shall be deemed not to have made the supply to the recipient;

(*b*) the agent shall be deemed to have made the supply to the recipient and not to have made a supply to the principal of services relating to the supply to the recipient; and

(*c*) the principal shall be deemed to have made a supply of the property or service to the agent, and the agent shall be deemed to have received that supply from the principal, for consideration, paid at that time, equal to the amount, if any, by which the consideration for the supply to the recipient exceeds the consideration for the supply that, but for this subsection, would be made by the agent to the principal of services relating to the supply to the recipient.

(1.1) For the purposes of this Part, where at any time a registrant (in this subsection referred to as the "agent"), acting as agent of another person who is not a registrant (in this subsection referred to as the "principal") in the course of a commercial activity of the agent, makes a supply (otherwise than by auction) of personal property on behalf of the principal to a recipient and does not disclose to the recipient in writing that the agent is making the supply on behalf of a person who is not a registrant,

(*a*) the principal shall be deemed not to have made the supply to the recipient;

(*b*) the agent shall be deemed to have made the supply to the recipient and not to have made a supply to the principal of services relating to the supply to the recipient; and

(*c*) the principal shall be deemed to have made a supply of the property to the agent, and the agent shall be deemed to have received that supply from the principal, for consideration, paid at that time, equal to the amount determined by the formula

$$A - B$$

where

A is the total of the consideration for the supply of the property to the recipient and the tax payable in respect of that supply, and

B is the total of the consideration for the supply that, but for this subsection, would be made by the agent to the principal of services relating to the supply to the recipient and the tax, calculated on that consideration, that would, but for this subsection, be payable by the principal.

42. (1) The said Act is further amended by adding thereto, immediately after section 178 thereof, the following headings and sections:

Direct Sellers

Definitions

178.1 In this section and sections 178.2 to 178.5,

"direct seller"
« démarcheur »

"direct seller" means a person who sells exclusive products or sales aids of the person to independent sales contractors of the person;

"distributor"
« distributeur »

"distributor" of a direct seller means a person who is an independent sales contractor of the direct seller and who, in the course of the contractor's business, sells some or all of the exclusive products of the direct seller acquired by the contractor to other independent sales contractors of the direct seller;

"exclusive product"
« produit exclusif »

"exclusive product" of a person means tangible personal property (other than a sales aid)

(*a*) that is imported, manufactured or produced by the person under the person's brand name or manufactured or produced under the person's brand name for the person by another person, and

(*b*) that is supplied to purchasers of the product exclusively by independent sales contractors of the person;

"independent sales contractor"
« entrepreneur indépendant »

"independent sales contractor" of a direct seller means a person (other than an agent or employee of the direct seller or of a distributor of the direct seller) who

(*a*) has a contractual right to purchase exclusive products of the direct seller from the direct seller or from a distributor of the direct seller, (*b*) purchases exclusive products of the direct seller for the purpose of supply to other independent sales contractors of the direct seller or to purchasers, and

(*c*) does not solicit, negotiate or enter into contracts for the sale of exclusive products of the direct seller to purchasers primarily at a fixed place of business of the person other than a private residence,

and "independent sales contractor" of a distributor of a direct seller means a person

(*d*) who is an independent sales contractor of the direct seller,

(*e*) whose contractual right to purchase exclusive products of the direct seller is a right to purchase them from the distributor, and

(*f*) who does not have a contractual right to purchase them from any other person;

"purchaser"
« acheteur »

"purchaser" of an exclusive product of a direct seller means a person who is the recipient of a supply of the product and who is not acquiring the product for the purpose of supplying it for consideration;

"sales aid"
« matériel de promotion »

"sales aid" includes a sample, a catalogue, advertising material, a leaflet and a video or audio recording provided for the purpose of promoting or assisting in the sale of tangible personal property;

"suggested retail price"
« prix de vente au détail suggéré »

"suggested retail price" at any time of an exclusive product of a direct seller means the lowest price published by the direct seller applicable to supplies of the product made at that time to purchasers but not including any amount on account of tax.

Application for alternate collection method

178.2 (1) A direct seller who is a registrant may apply, in prescribed form containing prescribed information and filed in prescribed manner, to the Minister to have section 178.3 apply to the direct seller.

Idem

(2) Where a direct seller and a distributor of the direct seller are registrants, they may apply jointly, in prescribed form containing prescribed information and filed in prescribed manner, to the Minister to have section 178.4 apply to the distributor.

Grant of approval

(3) Where the Minister receives an application under subsection (1) from a direct seller, the Minister may approve in writing the application of section 178.3 to the direct seller and the approval is effective for the period commencing on the day specified by the Minister in the approval and ending on the day on which a revocation of the approval becomes effective.

Idem

(4) Where the Minister receives a joint application under subsection (2) from a direct seller and a distributor of the direct seller, the Minister may approve in writing the application of section 178.4 to the distributor and the approval is effective for the period commencing on the day specified by the Minister in the approval and ending on the day on which a revocation of the approval becomes effective.

Idem

(5) The Minister shall not approve the application of section 178.3 to a direct seller for a period or any part of a period during which an approval granted under subsection (4) in respect of a distributor of the direct seller is in effect.

Idem

(6) The Minister shall not approve the application of section 178.4 to a distributor of a direct seller for a period or any part of a period during which an approval granted under subsection (3) in respect of the direct seller is in effect.

Revocation of approval

(7) The Minister may revoke an approval granted under subsection (3) for the application of section 178.3 to a direct seller where the direct seller fails to comply with any provision of this Part or the direct seller, in writing, requests the Minister to revoke the

approval, and the Minister shall, in writing, notify the direct seller of the revocation and the day on which it becomes effective.

Idem

(8) The Minister may revoke an approval granted under subsection (4) for the application of section 178.4 to a distributor of a direct seller where the distributor fails to comply with any provision of this Part or the distributor and the direct seller, in writing, jointly request the Minister to revoke the approval and the Minister shall, in writing, notify both the distributor and the direct seller of the revocation and the day on which it becomes effective.

Effect of approval for direct seller

178.3 (1) For the purposes of this Part, where at any time when an approval of the Minister for the application of this section to a direct seller is in effect, the direct seller makes in Canada a taxable supply by way of sale (other than a zero-rated supply) of an exclusive product of the direct seller to an independent sales contractor of the direct seller, the following rules apply:

(*a*) the supply shall be deemed to have been made for consideration

(i) that becomes due, and is paid, at the particular time that is the earliest time at which any consideration for the supply becomes due or is paid, and

(ii) that is equal to the suggested retail price of the product at the time the supply is made;

(*b*) tax is deemed not to be payable by the contractor in respect of the supply;

(*c*) the contractor shall not be entitled to any rebate under section 261 in respect of the supply;

(*d*) in determining the net tax of the direct seller for the reporting period of the direct seller that includes the particular time, there shall be added an amount equal to tax calculated on the suggested retail price of the product at the time the supply is made; and

(*e*) the direct seller shall be deemed to have received, at the particular time from the contractor, and the contractor shall be deemed to have made at the particular time to the direct seller, a taxable supply of a service for consideration, that becomes due and is paid at the particular time, equal to the amount determined by the formula

$$A + (A \times B) - C$$

where

A is the suggested retail price of the product at the time the supply of the product by the direct seller to the contractor is made,

B is the rate of tax imposed under subsection 165(1), and

C is the consideration, determined without reference to paragraph (*a*), for that supply of the product.

Idem

(2) Where, at any time when an approval of the Minister for the application of this section to a direct seller is in effect, a particular independent sales contractor of the direct seller makes in Canada a particular supply (other than a zero-rated supply) of an exclusive product of the direct seller,

(*a*) if the recipient of the supply is another independent sales contractor of the direct seller,

(i) the supply shall be deemed, for the purposes of this Part except section 178.1 and this section, not to have been made by the particular contractor and not to have been received by the other contractor, and

(ii) the particular contractor shall, for the purposes of this Part, be deemed to have received from the other contractor, and the other contractor shall be deemed to have made to the particular contractor, at the particular time that is the earliest time at which consideration for the particular supply becomes due or is paid, a taxable supply of a service for consideration, that becomes due and is paid at the particular time, equal to the amount determined by the formula

$$A + (A \times B) - C$$

where

A is the suggested retail price of the product at the time the supply of the product by the particular contractor is made,

B is the rate of tax imposed under subsection 165(1), and

C is the consideration for the supply of the product by the particular contractor to the other contractor;

(*b*) if the recipient of the particular supply is the direct seller,

(i) the particular supply shall, for the purposes of this Part except this section, be deemed not to have been made by the particular contractor, and

(ii) the direct seller shall be deemed, for the purposes of this Part except section 178.1, to have received a taxable supply of the product and to have paid tax in respect of the supply, at the time the particular supply is made, equal to tax calculated on the suggested retail price of the product at the time the direct seller supplied the product to the particular contractor; and

(*c*) if the recipient of the supply is any other person,

(i) the particular supply shall be deemed, for the purposes of this Part except section 178.1, to be a taxable supply made by the direct seller, and not by the particular contractor, for consideration equal to the suggested retail price of the product at the time the particular supply is made,

(ii) any tax in respect of the particular supply that is collected by the particular contractor shall be deemed to have been collected on behalf of the direct seller, and

(iii) tax in respect of the particular supply shall not be included in determining the net tax of the direct seller for any reporting period.

Effect of approval for distributor

178.4 (1) For the purposes of this Part, where at any time when an approval of the Minister for the application of this section to a distributor of a direct seller is in effect, the distributor makes in

Canada a taxable supply by way of sale (other than a zero-rated supply) of an exclusive product of the direct seller to an independent sales contractor of the distributor, the following rules apply:

(*a*) the supply shall be deemed to have been made for consideration

(i) that becomes due, and is paid, at the particular time that is the earliest time at which any consideration for the supply becomes due or is paid, and

(ii) that is equal to the suggested retail price of the product at the time the supply is made;

(*b*) tax is deemed not to be payable by the contractor in respect of the supply;

(*c*) the contactor shall not be entitled to any rebate under section 261 in respect of the supply;

(*d*) in determining the net tax of the distributor for the reporting period of the distributor that includes the particular time, there shall be added an amount equal to tax calculated on the suggested retail price of the product at the time the supply is made; and

(*e*) the distributor shall be deemed to have received, at the particular time from the contractor, and the contractor shall be deemed to have made at the particular time to the distributor, a taxable supply of a service for consideration, that becomes due and is paid at the particular time, equal to the amount determined by the formula

$$A + (A \times B) - C$$

where

A is the suggested retail price of the product at the time the supply of the product by the distributor to the contractor is made,

B is the rate of tax imposed under subsection 165(1), and

C is the consideration, determined without reference to paragraph (*a*), for that supply of the product.

Idem

(2) Where, at any time when an approval of the Minister for the application of this section to a distributor of a direct seller is in effect, a particular independent sales contractor of the distributor makes in

Canada a particular supply (other than a zero-rated supply) of an exclusive product of the direct seller,

(*a*) if the recipient of the supply is another independent sales contractor of the distributor,

(i) the supply shall be deemed, for the purposes of this Part except section 178.1 and this section, not to have been made by the particular contractor and not to have been received by the other contractor; and

(ii) the particular contractor shall, for the purposes of this Part, be deemed to have received from the other contractor, and the other contractor shall be deemed to have made to the particular contractor, at the particular time that is the earliest time at which consideration for the particular supply becomes due or is paid, a taxable supply of a service for consideration, that becomes due and is paid at the particular time, equal to the amount determined by the formula

$$A + (A \times B) - C$$

where

A is the suggested retail price of the product at the time the supply by the particular contractor is made,

B is the rate of tax imposed under subsection 165(1), and

C is the consideration for the supply of the product by the particular contractor to the other contractor;

(*b*) if the recipient of the particular supply is the distributor,

(i) the particular supply shall, for the purposes of this Part except this section, be deemed not to have been made by the particular contractor, and

(ii) the distributor shall be deemed, for the purposes of this Part, to have received a taxable supply of the product and to have paid tax in respect of the supply, at the time the particular supply is made, equal to the tax calculated on the suggested retail price of the product at the time the distributor supplied the product to the particular contractor, and (*c*) if the recipient of the supply is any other person,

(i) the particular supply shall be deemed, for the purposes of this Part except section 178.1, to be a taxable supply made by the distributor, and not by the particular contractor, for consideration equal to the suggested retail price of the product at the time the particular supply is made,

(ii) any tax in respect of the particular supply that is collected by the particular contractor shall be deemed to have been collected on behalf of the distributor, and

(iii) tax in respect of the particular supply shall not be included in determining the net tax of the distributor for any reporting period.

Products held at time of approval

178.5 (1) Where at the time section 178.3 begins to apply to a direct seller, a registrant who is an independent sales contractor of the direct seller has in inventory an exclusive product of the direct seller, the contractor shall be deemed, for the purposes of this Part except sections 148 and 249,

(*a*) to have made, immediately before that time, a supply of the product for consideration, that becomes due and is paid immediately before that time, equal to the suggested retail price of the product at that time; and

(*b*) to have collected, immediately before that time, tax in respect of the supply calculated on that consideration.

Idem

(2) Where at the time section 178.4 begins to apply to a distributor of a direct seller, a registrant who is an independent sales contractor of the distributor has in inventory an exclusive product of the direct seller, the contractor shall be deemed, for the purposes of this Part except sections 148 and 249,

(*a*) to have made, immediately before that time, a supply of the product for consideration, that becomes due and is paid immediately before that time, equal to the suggested retail price of the product at that time; and (*b*) to have collected, immediately before that time, tax in respect of the supply calculated on that consideration.

Products held at time of revocation

(3) Where at the time section 178.3 ceases to apply to a direct seller, a registrant who is an independent sales contractor of the direct seller has in inventory an exclusive product of the direct seller, the contractor shall, for the purposes of this Part, be deemed

(*a*) to have received, immediately after that time, a supply of the product for consideration, that becomes due and is paid immediately after that time, equal to the suggested retail price of the product at that time; and

(*b*) to have paid, immediately after that time, tax in respect of the supply calculated on that consideration.

Idem

(4) Where at the time section 178.4 ceases to apply to a distributor of a direct seller, a registrant who is an independent sales contractor of the distributor has in inventory an exclusive product of the direct seller, the contractor shall, for the purposes of this Part, be deemed

(*a*) to have received, immediately after that time, a supply of the product for consideration, that becomes due and is paid immediately after that time, equal to the suggested retail price of the product at that time; and

(*b*) to have paid, immediately after that time, tax in respect of the supply calculated on that consideration.

Buying Groups

Definitions

178.6 (1) In this section,

"original supplier"
« fournisseur initial »

"original supplier" of tangible personal property or a service means a person who supplies the property or service to another person who, in turn, supplies the property or service by way of a pass-through supply;

"pass-through supply"
« fourniture intermédiaire »

"pass-through supply" means a supply of tangible personal property or a service made by a person for consideration that is equal to the consideration paid or payable by the person to the supplier who supplied the property or service to the person;

"ultimate recipient"
« dernier acquéreur »

"ultimate recipient" means a recipient of a pass-through supply.

Application for buyer designation

(2) Where

(*a*) all or substantially all of the supplies of property and services made by a person in the ordinary course of the person's business are pass-through supplies,

(*b*) in respect of each pass-through supply of tangible personal property or a service made by the person, the original supplier of the property or service delivers the property or renders the service to the ultimate recipient, and

(*c*) in respect of each pass-through supply of tangible personal property or a service made by the person, the ultimate recipient pays, on behalf of the person, to the original supplier of the property or service, the amount payable by the person to the original supplier as consideration for the property or service,

the person may apply to the Minister, in prescribed form containing prescribed information and filed in prescribed manner, to be designated as a buyer.

Designation as buyer

(3) Where the Minister receives an application of a person under subsection (2), the Minister may, subject to such conditions as the Minister may at any time impose, designate the person as a buyer and notify the person in writing of the designation and the day it becomes effective.

Revocation of designation

(4) The Minister may revoke a designation of a person made under subsection (3)

(*a*) on application of the person, or

(*b*) where the person fails to comply with any condition imposed in respect of the designation,

and, where the designation is revoked, the Minister shall notify the person in writing of the day the designation ceases to be effective.

Buying group method

(5) Where a person makes a pass-through supply of tangible personal property or a service at a time when a designation of the person as a buyer under subsection (3) is in effect, for the purposes of this Part (other than section 148, this section and Subdivision e of Division V), the following rules apply:

(*a*) the supply of the property or service by the original supplier of the property or service shall be deemed to have been made to the ultimate recipient and not to the person;

(*b*) the person shall be deemed not to have received a supply of the property or service from the original supplier nor to have supplied the property or service to the ultimate recipient;

(*c*) the consideration payable for, and the tax payable in respect of, the supply by the original supplier of the property or service shall be deemed to be payable by the ultimate recipient and any amount paid in respect of the consideration or tax shall be deemed to have been paid by the ultimate recipient;

(*d*) notwithstanding paragraph (*c*), the person and the ultimate recipient are jointly and severally liable for the payment of the tax in respect of the supply made by the original supplier; and

(*e*) if the amount charged or collected by the original supplier of the property or service as or on account of tax under Division II in respect of the supply exceeds the tax under that Division that was collectible in respect of the supply, or if the amount of tax under that Division collectible in respect of the supply is reduced because of a reduction in the consideration for the supply, and the original supplier issues to, or receives from, the person a credit note or a debit note in respect of the supply, the person shall be deemed to have received or issued the note on behalf of the ultimate recipient.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

43. (1) Section 179 of the said Act is repealed and the following substituted therefor:

Delivery to consignee of a non-resident

179. (1) For the purposes of this Part, where

(*a*) a registrant, under an agreement between the registrant and a non-resident person who is not registered under Subdivision d of Division V,

(i) makes a supply in Canada of tangible personal property by way of sale, or a supply in Canada of a service of manufacturing or producing tangible personal property, to the non-resident person, or acquires physical possession of tangible personal property of the non-resident person for the purpose of making a supply of a commercial service in respect of the property to the non-resident person, and

(ii) at any time causes physical possession of the property to be transferred, at a place in Canada, to a third person (in this subsection referred to as the "consignee") or to the non-resident person, and

(*b*) the non-resident person is not a consumer of the property or service supplied by the registrant under the agreement,

except where a supply of the property by the non-resident person is or would be an exempt supply, the following rules apply:

(*c*) the registrant shall be deemed to have made to the non-resident person, and the non-resident person shall be deemed to have received from the registrant, a taxable supply of the property for consideration, that becomes due and is paid at that time, equal to

(i) where the registrant has caused physical possession of the property to be transferred to a consignee and the non-resident person has made a supply of the property to the consignee for no consideration, nil,

(ii) where the registrant has caused physical possession of the property to be transferred to a consignee and the non-resident person has made a supply by way of sale of the property to a consignee for consideration, the total of

(A) the fair market value of the property at that time, and

(B) where the registrant supplied a service in respect of the property to the non-resident person and the consideration for the supply is not included in the fair market value of the property determined under clause (A), the consideration for the supply of the service in respect of the property, and

(iii) where the registrant has caused physical possession of the property to be transferred to the non-resident person, the total of

(A) the fair market value of the property at that time, and

(B) where the registrant supplied a service in respect of the property to the non-resident person and the consideration for the supply is not included in the fair market value of the property determined under clause (A), that consideration; and

(*d*) where the registrant made a supply of a service in respect of the property to the non-resident person, the registrant shall be deemed not to have made that supply of the service.

Delivery to registered consignee of a non-resident

(2) For the purposes of this Part, where

(*a*) a registrant, under an agreement between the registrant and a non-resident person who is not registered under Subdivision d of Division V,

(i) makes a supply in Canada of tangible personal property by way of sale, or a supply in Canada of a service of manufacturing or producing tangible personal property, to the non-resident person, or acquires physical possession of tangible personal property of the non-resident person for the purpose of making a supply of a commercial service in respect of the property to the non-resident person, and

(ii) causes physical possession of the property to be transferred, at a place in Canada, to a third person (in this subsection referred to as the "consignee") who is registered under Subdivision d of Division V,

(*b*) the non-resident person is not a consumer of the property or service supplied by the registrant under the agreement, and

(*c*) the consignee gives to the registrant, and the registrant retains, a certificate that

(i) states the consignee's name and registration number assigned under subsection 241(1),

(ii) acknowledges the transfer of physical possession to the consignee for the purposes of this section, and

(iii) states that the consignee is acquiring possession of the property for the purpose of supplying a commercial service in respect of the property or for consumption, use or supply by the consignee,

subsection (1) does not apply to the supply and, except where the supply made by the registrant is a supply of a service of storing or shipping the property, the registrant shall be deemed to have made the supply outside Canada.

Delivery to non-resident for export

(3) For the purposes of this Part, where

(*a*) a registrant, under an agreement between the registrant and a non-resident person who is not registered under Subdivision d of Division V,

(i) makes a supply in Canada of tangible personal property by way of sale to the non-resident person,

(ii) makes a supply in Canada of a service of manufacturing or producing tangible personal property to the non-resident person, or

(iii) acquires physical possession of tangible personal property of the non-resident person for the purpose of making a supply of a commercial service in respect of the property to the non-resident person, (*b*) the non-resident person is not a consumer of the property or service supplied by the registrant under the agreement, and

(*c*) either

(i) the registrant transfers physical possession of the property to a person at a place outside Canada or transfers physical possession of the property to a carrier, or mails the property, for export and delivery to a person at a place outside Canada, or

(ii) all of the following conditions are met:

(A) the registrant transfers physical possession of the property at a place in Canada

(I) where the registrant has made a supply of the property by way of sale to the non-resident person, to another person (in this subparagraph referred to as the "exporter") who has acquired ownership of the property for export, or

(II) in any other case, to the non-resident person, another person who has acquired ownership of the property or any other person (each of whom is referred to in this subparagraph as the "exporter") for export,

(B) after physical possession of the property is transferred to the exporter, the exporter exports the property as soon as is reasonable having regard to the circumstances surrounding the exportation and, where applicable, the normal business practices of the exporter and the owner of the property,

(C) the property has not been acquired by the non-resident person or other owner of the property for consumption, use or supply in Canada at any time after physical possession of the property is transferred to the exporter and before the property is exported,

(D) after physical possession of the property is transferred to the exporter and before the property is exported, the property is not further processed, transformed or altered except to the extent reasonably necessary or incidental to its transportation, and

(E) the registrant maintains evidence satisfactory to the Minister of the exportation of the property, subsection (1) does not apply to the supply and, except where the supply made by the registrant is a supply of a service of storing or shipping the property, the registrant shall be deemed to have made the supply outside Canada.

Retention of possession

(4) For the purposes of this section, section 180 and paragraph (*b*) of the definition "imported taxable supply" in section 217, where

(*a*) a particular registrant makes a supply by way of sale of tangible personal property to a non-resident person who is not registered under Subdivision d of Division V and at any time transfers ownership of the property to the non-resident person under the agreement for the supply, and

(*b*) the particular registrant, or another registrant who has physical possession of the property at that time, retains physical possession of the property after that time for the purpose of

(i) transferring physical possession of the property to the non-resident person, a person (in this subparagraph referred to as the "subsequent purchaser") who subsequently acquires ownership of the property or a person designated by the non-resident person or the subsequent purchaser, or

(ii) making a supply of a commercial service in respect of the property to the non-resident person or another person who subsequently acquires ownership of the property,

the following rules apply:

(*c*) the particular registrant shall be deemed to have transferred physical possession of the property at that time to another registrant who was acquiring physical possession of the property for the purpose of making a supply of a commercial service in respect of the property to the non-resident person, and

(*d*) the registrant who retained physical possession of the property at that time shall be deemed to have acquired physical possession of the property at that time under an agreement with the non-resident person for the purpose of making a supply of a commercial service in respect of the property to the non-resident person.

Transfer of possession to carrier

(5) For the purposes of this section, section 180 and paragraph (*b*) of the definition "imported taxable supply" in section 217, where a registrant at any time transfers physical possession of tangible personal property to a carrier solely for the purpose of shipping the property,

(*a*) where, under the agreement with the carrier for shipping the property, the carrier is required to transfer physical possession of the property to a person, other than the registrant,

(i) the registrant shall be deemed to have transferred physical possession of the property to that person at that time and that person shall be deemed to have acquired physical possession of the property at that time, and

(ii) the registrant shall be deemed not to have transferred physical possession of the property to the carrier and the carrier shall be deemed not to have acquired physical possession of the property; and

(*b*) where, under the agreement with the carrier for shipping the property, the carrier is required to transfer physical possession of the property to the registrant, the registrant shall be deemed to retain physical possession of the property, and the carrier shall be deemed not to have acquired physical possession of the property, throughout the period beginning at that time and ending at the time the carrier transfers physical possession of the property to the registrant.

(2) All that portion of paragraph 179(4)(*b*) of the said Act preceding subparagraph (i) thereof, as enacted by subsection (1), is repealed and the following substituted therefor:

(*b*) the particular registrant, or another registrant who has physical possession of the property at that time and who gives the particular registrant a certificate described in paragraph (2)(*c*), retains physical possession of the property after that time for the purpose of

(3) Subsection 179(5) of the said Act, as enacted by subsection (1), is repealed and the following substituted therefor:

Transfer of possession to bailee

(5) For the purposes of this section, section 180 and paragraph (*b*) of the definition "imported taxable supply" in section 217, where a registrant at any time transfers physical possession of tangible personal

property to a bailee solely for the purpose of storing or shipping the property and either

(*a*) the bailee is a carrier to whom physical possession of the property has been transferred solely for the purpose of shipping the property, or

(*b*) the bailee has not, at or before that time, given the registrant a certificate of the bailee described in paragraph (2)(*c*),

the following rules apply:

(*c*) where, under the agreement with the bailee for storing or shipping the property, the bailee is required to transfer physical possession of the property to a person, other than the registrant, who is named at that time in the agreement,

(i) the registrant shall be deemed to have transferred physical possession of the property to that person at that time and that person shall be deemed to have acquired physical possession of the property at that time, and

(ii) the registrant shall be deemed not to have transferred physical possession of the property to the bailee and the bailee shall be deemed not to have acquired physical possession of the property; and

(*d*) where, under the agreement with the bailee for storing or shipping the property, the bailee is required to transfer physical possession of the property to the registrant or to another person (in this paragraph referred to as the "consignee") who is to be identified at a later time,

(i) the registrant shall be deemed to retain physical possession of the property, and the bailee shall be deemed not to have acquired physical possession of the property, throughout the period beginning at that time and ending at the earliest of

(A) the time the consignee becomes identified,

(B) the time the bailee transfers physical possession of the property to the registrant, and

(C) where the bailee is not a carrier to whom physical possession of the property has been transferred for the sole purpose of shipping the property, the time the bailee gives the registrant a certificate of the bailee described in paragraph (2)(*c*),

(ii) where the bailee is not a carrier to whom physical possession of the property has been transferred for the sole purpose of shipping the property and the bailee, at a particular time before the time the consignee becomes identified, gives the registrant a certificate of the bailee described in paragraph (2)(*c*), the registrant shall be deemed to have transferred physical possession of the property to the bailee at the particular time and the bailee shall be deemed to have acquired physical possession of the property at the particular time for the purpose of making a supply of a commercial service in respect of the property to the owner of the property under an agreement with the owner, and

(iii) where the consignee becomes identified at a particular time before the bailee gives the registrant a certificate of the bailee described in paragraph (2)(*c*) in circumstances described in subparagraph (ii), the registrant shall be deemed to have transferred physical possession of the property to the consignee at the particular time and the consignee shall be deemed to have acquired physical possession of the property at the particular time,

and for the purposes of this paragraph, a consignee becomes identified at the earliest of

(iv) the time the registrant gives the consignee such documents in writing as are sufficient to enable the consignee to require the bailee to transfer physical possession of the property to the consignee,

(v) the time the registrant directs the bailee in writing to transfer physical possession of the property to the consignee, and

(vi) the time the bailee transfers physical possession of the property to the consignee.

Goods transferred to bailee by non-resident

(6) For the purposes of this section, section 180 and paragraph (*b*) of the definition "imported taxable supply" in section 217, where a non-resident person who is not registered under Subdivision d of Division V transfers physical possession of tangible personal property

to a bailee who is a registrant for the sole purpose of storing or shipping the property and the bailee

(*a*) is a carrier who is acquiring physical possession of the property for the sole purpose of shipping the property, or

(*b*) does not claim an input tax credit in respect of the acquisition or importation of the property,

the bailee shall be deemed not to have acquired physical possession of the property.

(4) Subsection (1) shall be deemed to have come into force on December 17, 1990 except that

(*a*) where a registrant who delivered property to a person in Canada before March 28, 1991 was deemed to have made a supply of the property, and to have collected tax in respect of the supply, under section 179 of the said Act as that section read before this Act was assented to, and the registrant included an amount as or on account of that tax in determining the net tax of the registrant for a reporting period of the registrant beginning before that date, that section applies to the delivery of the property as if this section had not come into force; and

(*b*) paragraph 179(2)(*c*) of the *Excise Tax Act*, as enacted by subsection (1), does not apply to a registrant in respect of particular property where the registrant, before the day that is 30 days after ANNOUNCEMENT DATE, transfers physical possession of the particular property to a person who is registered under Subdivision d of Division V of Part IX of the said Act.

(5) Subsections (2) and (3) shall be deemed to have come into force on the day that is 30 days after ANNOUNCEMENT DATE.

44. (1) Section 180 of the said Act is repealed and the following substituted therefor:

Transfer of property from non-resident to registrant

180. For the purposes of determining an input tax credit of a particular registrant, where a non-resident person who is not registered under Subdivision d of Division V (*a*) either

(i) makes a supply of tangible personal property to the particular registrant and delivers the property, or makes it available, in Canada to the particular registrant before the property is used in Canada by or on behalf of the non-resident person, or

(ii) causes physical possession of tangible personal property to be transferred in Canada to the particular registrant in circumstances in which the particular registrant is acquiring physical possession of the property for the purpose of making a taxable supply of a commercial service in respect of the property to the non-resident person,

(*b*) has paid tax under Division III in respect of the importation of the property or has paid tax in respect of a supply of the property deemed under subsection 179(1) to have been made by a registrant, and

(*c*) provides to the particular registrant evidence, satisfactory to the Minister, that the tax has been paid,

the particular registrant shall be deemed

(*d*) to have paid, at the time the non-resident person paid that tax, tax in respect of a supply of the property to the particular registrant equal to that tax, and

(*e*) in a case described in subparagraph (*a*)(ii), to have acquired the property for use exclusively in commercial activities of the particular registrant.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

45. (1) Sections 181 and 182 of the said Act are repealed and the following substituted therefor:

Meaning of "coupon"

181. (1) In this section, "coupon" includes a voucher, receipt, ticket or other device but does not include a gift certificate.

Acceptance of reimbursable coupon

(2) For the purposes of this Part, other than subsection 223(1), where at any time a registrant accepts, in full or partial consideration for a taxable supply of property or a service (other than a zero-rated supply), a coupon that entitles the recipient of the supply to a reduction of the price of the property or service equal to a fixed dollar amount specified in the coupon (in this subsection referred to as the "coupon value") and the registrant can reasonably expect to be paid an amount for the redemption of the coupon by another person, the following rules apply:

(*a*) the tax collectible by the registrant in respect of the supply shall be deemed to be the tax that would be collectible if the coupon were not accepted;

(*b*) the registrant shall be deemed to have collected, at that time, a portion of the tax collectible equal to the tax fraction of the coupon value; and

(*c*) the tax payable by the recipient in respect of the supply shall be deemed to be the amount determined by the formula

$$A - B$$

where

A is the tax collectible by the registrant in respect of the supply, and

B is the tax fraction of the coupon value.

Acceptance of non-reimbursable coupon

(3) Where at any time a registrant accepts, in full or partial consideration for a taxable supply of property or a service (other than a zero-rated supply), a coupon that entitles the recipient of the supply to a reduction of the price of the property or service equal to a fixed dollar amount specified in the coupon (in this subsection referred to as the "coupon value") and the registrant can reasonably expect not to be paid an amount for the redemption of the coupon by another person, the registrant shall, for the purposes of this Part, treat the coupon

(*a*) as reducing the value of the consideration for the supply as provided for in subsection (4); or (*b*) as a partial cash payment that does not reduce the value of the consideration, in which event subsection (2) applies and the registrant may claim an input tax credit for the reporting period of the registrant that includes that time equal to the tax fraction of the coupon value.

Acceptance of other coupons

(4) For the purposes of this Part, where a registrant accepts, in full or partial consideration for a supply of property or a service, a coupon that may be exchanged for the property or service or that entitles the recipient of the supply to a reduction of, or a discount on, the price of the property or service and subsection (2) does not apply in respect thereof, the value of the consideration for the supply shall be deemed to be the amount, if any, by which the value of the consideration for the supply as otherwise determined for the purposes of this Part exceeds the discount or exchange value of the coupon.

Redemption of coupon

(5) For the purposes of this Part, where a supplier who is a registrant, in full or partial consideration for a taxable supply of property or a service (other than a zero-rated supply), accepts a coupon that may be exchanged for the property or service or that entitles the recipient of the supply to a reduction of, or a discount on, the price of the property or service, and a particular person at any time pays, in the course of a commercial activity of the particular person, an amount to the supplier for the redemption of the coupon, the following rules apply:

(*a*) the amount shall be deemed not to be consideration for a supply;

(*b*) the payment and receipt of the amount shall be deemed not to be a financial service; and

(*c*) where the coupon entitled the recipient to a reduction of the price of the property or service equal to a fixed dollar amount specified in the coupon, the particular person, if a registrant (other than a registrant who is a prescribed registrant for the purposes of subsection 188(5)) at that time, may claim an input tax credit for the reporting period of that particular person that includes that time equal to the tax fraction of that amount, unless all or part of that amount is an amount of an adjustment, refund or credit to which subsection 232(3) applies.

Rebates

181.1 Where

(*a*) a supplier makes a taxable supply in Canada of property or a service (other than a zero-rated supply),

(*b*) a particular person acquires the property or service, either from the supplier or from another person, and is, at a particular time, paid a rebate by the supplier in respect of the property or service, and

(*c*) subsection 232(3) does not apply to the rebate,

the following rules apply:

(*d*) where the supply by the supplier was made at a time when the supplier was a registrant, for the purpose of determining an input tax credit, the supplier shall be deemed to have received a taxable supply of a service for use exclusively in a commercial activity of the supplier and to have paid, at the particular time, tax in respect of the supply equal to the tax fraction of the amount of the rebate; and

(*e*) where the particular person is a registrant who was entitled to claim an input tax credit, or a rebate under Division VI, in respect of the acquisition of the property or service, the particular person shall be deemed, for the purposes of this Part, to have made a taxable supply and to have collected, at the particular time, tax in respect of the supply equal to the amount determined by the formula

$$A \times B/C \times D$$

where

A is the tax fraction,

B is the input tax credit or rebate under Division VI that the particular person was entitled to claim in respect of the acquisition of the property or service,

C is the tax payable by the particular person in respect of the acquisition of the property or service, and

D is the amount of the rebate paid to the particular person by the supplier.

Gift certificates

181.2 For the purposes of this Part, the issuance or sale of a gift certificate for consideration shall be deemed not to be a supply and, when given as consideration for a supply of property or a service, the gift certificate shall be deemed to be money.

Forfeiture

182. (1) For the purposes of this Part, where at any time, as a consequence of the breach, modification or termination after 1990 of an agreement for the making of a taxable supply (other than a zero-rated supply) of property or a service in Canada by a registrant, an amount is paid or forfeited, or becomes payable, by a person to the registrant otherwise than as consideration for the supply, the registrant shall be deemed to have made a taxable supply of the property or service to the person and to have collected tax from the person at that time equal to the tax fraction of the amount so paid, forfeited or payable, as the case may be, and the person shall be deemed to have received that supply and to have paid, at that time, that tax.

Extinguishing, debt, etc.

(2) For the purposes of this Part, where at any time, as a consequence of the breach, modification or termination after 1990 of an agreement for the making of a taxable supply (other than a zero-rated supply) of property or a service in Canada by or to a registrant, a debt or other obligation (other than consideration for the supply) of the registrant to a person is reduced or extinguished without payment on account of the debt or obligation, the registrant shall be deemed to have made a taxable supply of the property or service to the person and to have collected tax from the person at that time equal to the tax fraction of the amount by which the debt or obligation was so reduced or the amount so extinguished, as the case may be, and the person shall be deemed to have received that supply and to have paid, at that time, that tax.

Exception

(3) Subsection (1) does not apply to that part of any amount paid or forfeited, or that becomes payable, in respect of the breach, modification or termination of an agreement for the making of a supply where that part is

(*a*) an additional amount that is charged to a person because the consideration for the supply is not paid within a reasonable period and is such an amount referred to in section 161;

(*b*) an amount paid by one railway corporation to another railway corporation as or on account of a penalty for failure to return rolling stock within a stipulated time; or

(*c*) an amount paid as or on account of demurrage.

(2) Section 181.1 of the said Act, as enacted by subsection (1), is repealed and the following substituted therefor:

Rebates

181.1 Where

(*a*) a registrant makes a taxable supply in Canada of property or a service (other than a zero-rated supply),

(*b*) a particular person acquires the property or service, either from the registrant or from another person,

(*c*) the registrant pays, at any time, a rebate in respect of the property or service to the particular person and therewith provides written indication that a portion of the rebate is an amount on account of tax, and

(*d*) subsection 232(3) does not apply to the rebate,

the following rules apply:

(*e*) the registrant may claim an input tax credit for the reporting period of the registrant that includes that time equal to the tax fraction of the amount of the rebate, and

(*f*) where the particular person is a registrant who was entitled to claim an input tax credit, or a rebate under Division VI, in respect of the acquisition of the property or service, the particular person shall be deemed, for the purposes of this Part, to have made a taxable supply and to have collected, at that time, tax in respect of the supply equal to the amount determined by the formula

$$A \times B/C \times D$$

where

A is the tax fraction,

B is the input tax credit or rebate under Division VI that the particular person was entitled to claim in respect of the acquisition of the property or service,

C is the tax payable by the particular person in respect of the acquisition of the property or service, and

D is the amount of the rebate paid to the particular person by the registrant.

(3) Subsection (1) shall be deemed to have come into force on December 17, 1990.

(4) Subsection (2) applies to rebates paid after 1992.

46. (1) Section 183 of the said Act is repealed and the following substituted therefor:

Seizure and repossession

183. (1) Where at any time after 1990 property that was last supplied by way of sale to a person is, for the purpose of satisfying in whole or in part a debt or obligation owing by the person to another person (in this section referred to as the "creditor"), seized or repossessed by the creditor under any right or power exercisable by the creditor, the following rules apply:

(*a*) the person shall be deemed, for the purposes of this Part, to have made, at that time, a supply of the property for no consideration; and

(*b*) the creditor shall be deemed, for the purposes of this Part, to have acquired the property at that time for no consideration.

Supply in commercial activity

(2) Subject to subsection (3), where at any time a creditor who has seized or repossessed property in circumstances in which subsection (1) applies, makes a particular supply (other than an

exempt supply) of the property, except where any of subsections (4) to (6) applied at an earlier time in respect of the use of the property by the creditor, the creditor shall be deemed, for the purposes of this Part, to have made the particular supply in the course of commercial activities of the creditor.

Court seizures

(3) For the purposes of this Part, where under an order of a court an officer of the court seizes property and the court subsequently makes a supply of the property, the supply of the property by the court shall be deemed to be a supply made otherwise than in the course of a commercial activity.

Use of real property

(4) For the purposes of this Part, where a creditor who is a registrant and who has seized or repossessed real property in circumstances in which subsection (1) applies at any time begins to use the property otherwise than by making a supply of the property, the creditor shall be deemed to have made a supply of the property at that time and, except where the supply is an exempt supply,

(*a*) to have collected, at that time, tax in respect of the supply equal to the tax fraction of the fair market value of the property at that time; and

(*b*) to have acquired the property and paid that tax at that time.

Use of personal property seized before 1994

(5) For the purposes of this Part, where a creditor who has seized or repossessed personal property from a person before 1994 in circumstances in which subsection (1) applies begins at a particular time to use the property otherwise than by making a supply of the property, the following rules apply:

(*a*) the creditor shall be deemed

(i) to have received, immediately after the particular time, a particular supply by way of sale of the property, and

(ii) where the property was, at the time it was seized or repossessed, specified tangible personal property having a fair market value in excess of the amount prescribed in respect of the property for the purposes of section 176, to have so acquired the property for use, and to use the property at all times after that acquisition until the creditor disposes of the property, exclusively in activities other than commercial activities; and

(*b*) where tax would have been payable had the property been purchased in Canada from the person at the time it was seized or repossessed, the creditor shall be deemed

(i) to have made, at the particular time, a taxable supply of the property and to have collected, at the particular time, tax in respect of that supply equal to the tax fraction of the fair market value of the property at the time it was seized or repossessed; and

(ii) to have paid, immediately after the particular time, tax in respect of the particular supply equal to the amount determined under subparagraph (i).

Use of personal property seized after 1993

(6) For the purposes of this Part, where a creditor who has seized or repossessed personal property from a person after 1993 in circumstances in which subsection (1) applies begins, at a particular time, to use the property otherwise than by making a supply of the property,

(*a*) the creditor shall be deemed

(i) to have received, immediately after the particular time, a supply of the property and to have paid, immediately after the particular time, tax in respect of that supply equal to the tax fraction of the fair market value of the property at the time it was seized or repossessed, and

(ii) where the property was, at the time it was seized or repossessed, specified tangible personal property having a fair market value in excess of the amount prescribed in respect of the property for the purposes of section 176, to have so acquired the property for use, and to use the property at all times after that acquisition until the creditor disposes of the property, exclusively in activities other than commercial activities; and

(*b*) where tax would have been payable had the property been purchased in Canada from the person at the time it was seized or repossessed, the creditor shall be deemed to have made, at the particular time, a taxable supply of the property and to have collected, at the particular time, tax in respect of that supply equal to the tax fraction of the fair market value of the property at the time it was seized or repossessed.

Sale of property

(7) For the purposes of this Part, where a creditor who has seized or repossessed property from a person in circumstances in which subsection (1) applies makes at any time a particular taxable supply of the property by way of sale (other than a supply deemed, under any provision of this Part other than section 177, to have been made), the creditor was not deemed under subsection (4), (5), (6) or (8) to have made or received a supply of the property at an earlier time and the creditor provides evidence satisfactory to the Minister that the person has not received and is not entitled to claim an input tax credit or a rebate in respect of the property, the creditor shall be deemed,

(*a*) to have received a supply of the property immediately before that time for consideration equal to the consideration for the particular supply; and

(*b*) to have paid, immediately before that time, tax in respect of the supply deemed under paragraph (*a*) to have been received equal to the amount determined by the formula

$$A - B$$

where

A is tax calculated on that consideration, and

B is the total of all amounts each of which is an input tax credit or a rebate under this Part that the creditor was entitled to claim in respect of the property or an improvement thereto.

Lease of property

(8) For the purposes of this Part, where at any time a creditor who has seized or repossessed property from a person in circumstances in which subsection (1) applies makes a particular taxable supply of the property by way of lease, licence or similar arrangement, the creditor was not deemed under any of subsections (4) to (6) to have made or received a supply of the property at an earlier time and no tax would have been payable by the creditor had the creditor purchased the property in Canada from the person at the time it was seized or repossessed, except where

(*a*) the particular supply is made outside Canada or is a zero-rated supply, and

(*b*) the property was seized or repossessed by the creditor before 1994 or was, at the time it was seized or repossessed, used specified tangible personal property having a fair market value in excess of the amount prescribed in respect of the property for the purposes of section 176,

the creditor shall be deemed

(*c*) to have received a supply of the property immediately before the particular time, and

(*d*) to have paid, immediately before the particular time, tax in respect of that supply calculated on the fair market value of the property at the time it was seized or repossessed.

(2) Paragraphs 183(1)(*a*) and (*b*) of the said Act, as enacted by subsection (1), are repealed and the following substituted therefor:

(*a*) for the purposes of this Part, the person shall be deemed to have made, and the creditor shall be deemed to have received, at that time, a supply by way of sale of the property;

(*b*) for the purposes of this Part (other than sections 193 and 257), that supply shall be deemed to have been made for no consideration;

(*c*) where the supply referred to in paragraph (*a*) is a taxable supply of real property, for the purposes of sections 193 and 257, the tax payable in respect of the supply shall be deemed to be equal to tax calculated on the fair market value of the property at that time; and

(*d*) where the supply referred to in paragraph (*a*) is a supply included in section 9 of Part I, or in section 25 of Part VI, of Schedule V, for the purposes of sections 193 and 257, the supply shall be deemed to be a taxable supply and the tax payable in respect of the supply shall be deemed to be equal to tax calculated on the fair market value of the property at that time.

(3) Subsection 183(7) of the said Act, as enacted by subsection (1), is repealed and the following substituted therefor:

Sale of personal property

(7) For the purposes of this Part, where a creditor who has seized or repossessed personal property from a person in circumstances in which subsection (1) applies makes at any time a particular taxable supply of the property by way of sale (other than a supply deemed, under any provision of this Part other than section 177, to have been made), the creditor was not deemed under subsection (5), (6) or (8) to have received a supply of the property at an earlier time and no tax would have been payable by the creditor had the creditor purchased the property from the person in Canada at the time it was seized or repossessed, except where

(*a*) the particular supply is made outside Canada or is a zero-rated supply, and

(*b*) the property was seized or repossessed by the creditor before 1994 or was, at the time of the seizure or repossession, used specified tangible personal property having a fair market value in excess of the amount prescribed in respect of the property for the purposes of section 176,

the creditor shall be deemed

(*c*) to have received a supply of the property immediately before that time for consideration equal to the consideration for the particular supply; and

(*d*) to have paid, immediately before that time, tax in respect of the supply deemed under paragraph (*c*) to have been received equal to the amount determined by the formula

$$A - B$$

where

A is tax calculated on that consideration, and

B is the total of all amounts each of which is an input tax credit or a rebate under this Part that the creditor was entitled to claim in respect of the property or an improvement thereto.

(4) All that portion of subsection 183(8) of the said Act preceding paragraph (*c*) thereof, as enacted by subsection (1), is repealed and the following substituted therefor:

Lease of personal property

(8) For the purposes of this Part, where at any time a creditor who has seized or repossessed personal property from a person in circumstances in which subsection (1) applies makes a particular taxable supply of the property by way of lease, licence or similar arrangement, the creditor was not deemed under subsection (5) or (6) to have received a supply of the property at an earlier time and no tax would have been payable had the property been purchased in Canada from the person at the time the property was seized or repossessed, except where

(5) Section 183 of the said Act is further amended by adding thereto the following subsection:

Voluntary transfer

(9) For the purposes of this section, where property is at any time voluntarily transferred by a particular person to another person for the purpose of satisfying in whole or in part a debt or obligation in respect of which the particular person is in default, the other person shall be deemed to have seized or repossessed the property from the particular person at that time.

(6) Section 183 of the said Act is further amended by adding thereto the following subsection:

Debt security

(10) For the purposes of this section, where a creditor exercises a right under a debt security to cause the supply of property of another person and neither subsection (3) nor section 266 applies to the supply, the creditor shall be deemed to have seized the property immediately before that supply and that supply shall be deemed to have been made by the creditor and not by the other person.

(7) Subsection (1) shall be deemed to have come into force on December 17, 1990 except that

(*a*) where a creditor begins, on or before ANNOUNCEMENT DATE, to use property in circumstances in which subsection 183(5) of the said Act, as enacted by subsection (1), applies, in applying the said subsection 183(5) to the creditor in respect of that property, it shall be read without reference to subparagraph (*a*)(ii) thereof; and

(*b*) where a creditor begins, on or before ANNOUNCEMENT DATE, to use property in circumstances in which subsection 183(6) of the said Act, as enacted by subsection (1), applies, in applying the said subsection 183(6) to the creditor in respect of that property, it shall be read without reference to subparagraph (*a*)(ii) thereof.

(8) Subsections (2) to (4) apply to properties seized or repossessed after March 27, 1991.

(9) Subsection (5) applies to voluntary transfers of property executed after November 4, 1991.

(10) Subsection (6) shall be deemed to have come into force on THE DAY IMMEDIATELY FOLLOWING ANNOUNCEMENT DATE.

47. (1) Section 184 of the said Act is repealed and the following substituted therefor:

Supply to insurer on settlement of claim

184. (1) For the purposes of this Part, where at any time after 1990 property of a person is transferred to an insurer in the course of settling an insurance claim, the following rules apply:

(*a*) the person shall be deemed to have made, at that time, a supply of the property for no consideration; and

(*b*) the insurer shall be deemed to have acquired, at that time, the property for no consideration.

Supply in commercial activity

(2) Where at any time an insurer makes a particular supply (other than an exempt supply) of property transferred to the insurer in circumstances in which subsection (1) applies, except where any of subsections (3) to (5) applied at an earlier time in respect of the use of the property by the insurer, the insurer shall be deemed, for the purposes of this Part, to have made the particular supply in the course of commercial activities of the insurer.

Use of real property

(3) For the purposes of this Part, where at any time an insurer to whom real property has been transferred in circumstances in which subsection (1) applies begins to use the property otherwise than by

making a supply of the property, the insurer shall be deemed to have made a supply of the property at that time and, except where the supply is an exempt supply,

(*a*) to have collected, at that time, tax in respect of the supply equal to the tax fraction of the fair market value of the property at that time; and

(*b*) to have acquired the property and paid that tax at that time.

Use of personal property transferred before 1994

(4) For the purposes of this Part, where an insurer to whom personal property has been transferred from a person before 1994 in circumstances in which subsection (1) applies begins at a particular time to use the property otherwise than by making a supply of the property, the following rules apply:

(*a*) the insurer shall be deemed

(i) to have received, immediately after the particular time, a particular supply of the property, and

(ii) where the property was, at the time it was transferred, specified tangible personal property having a fair market value in excess of the amount prescribed in respect of the property for the purposes of section 176, to have so acquired the property for use, and to use the property at all times after that acquisition until the insurer disposes of the property, exclusively in activities other than commercial activities; and

(*b*) where tax would have been payable had the property been purchased in Canada from the person for consideration at the time it was transferred, the insurer shall be deemed

(i) to have made, at the particular time, a taxable supply of the property and to have collected, at the particular time, tax in respect of that supply equal to the tax fraction of the fair market value of the property at the time it was transferred, and

(ii) to have paid, immediately after the particular time, tax in respect of the particular supply equal to the amount determined under subparagraph (i).

Use of personal property transferred after 1993

(5) For the purposes of this Part, where an insurer to whom personal property has been transferred from a person after 1993 in circumstances in which subsection (1) applies begins, at a particular time, to use the property, otherwise than by making a supply of the property,

(*a*) the insurer shall be deemed

(i) to have received, immediately after the particular time, a supply of the property and to have paid, immediately after the particular time, tax in respect of that supply equal to the tax fraction of the fair market value of the property at the time it was transferred, and

(ii) where the property was, at the time it was transferred, specified tangible personal property having a fair market value in excess of the amount prescribed in respect of the property for the purposes of section 176, to have so acquired the property for use, and to use the property at all times after that acquisition until the insurer disposes of the property, exclusively in activities other than commercial activities; and

(*b*) where tax would have been payable had the property been purchased in Canada from the person at the time it was transferred, the insurer shall be deemed to have made, at the particular time, a taxable supply of the property and to have collected, at the particular time, tax in respect of that supply equal to the tax fraction of the fair market value of the property at the time it was transferred.

Sale of property

(6) For the purposes of this Part, where an insurer to whom property has been transferred from a person in circumstances in which subsection (1) applies makes at any time a particular taxable supply of the property by way of sale (other than a supply deemed, under any provision of this Part other than section 177, to have been made), the insurer was not deemed under subsection (3), (4), (5) or (7) to have made or received a supply of the property at an earlier time and the insurer provides evidence satisfactory to the Minister that the person has not received and is not entitled to claim an input tax credit or a rebate in respect of the property, the insurer shall be deemed,

(*a*) to have received a supply of the property immediately before that time for consideration equal to the consideration for the particular supply; and (*b*) to have paid, immediately before that time, tax in respect of the supply deemed under paragraph (*a*) to have been received equal to the amount determined by the formula

$$A - B$$

where

A is tax calculated on that consideration, and

B is the total of all amounts each of which is an input tax credit or a rebate under this Part that the insurer was entitled to claim in respect of the property or an improvement thereto.

Lease of property

(7) For the purposes of this Part, where at any time an insurer to whom property has been transferred from a person in circumstances in which subsection (1) applies makes a particular taxable supply of the property by way of lease, licence or similar arrangement, the insurer was not deemed under any of subsections (3) to (5) to have made or received a supply of the property at an earlier time and no tax would have been payable by the insurer had the insurer purchased the property in Canada from the person at the time the property was transferred, except where

(*a*) the particular supply is made outside Canada or is a zero-rated supply, and

(*b*) the property was transferred to the insurer before 1994 or was, at the time it was transferred, used specified tangible personal property having a fair market value in excess of the amount prescribed in respect of the property for the purposes of section 176,

the insurer shall be deemed

(*c*) to have received a supply of the property immediately before the particular time, and

(*d*) to have paid, immediately before the particular time, tax in respect of that supply calculated on the fair market value of the property at the time it was transferred.

(2) Paragraphs 184(1)(*a*) and (*b*) of the said Act, as enacted by subsection (1), are repealed and the following substituted therefor:

(*a*) for the purposes of this Part, the person shall be deemed to have made, and the insurer shall be deemed to have received, at that time, a supply by way of sale of the property;

(*b*) for the purposes of this Part (other than sections 193 and 257), that supply shall be deemed to have been made for no consideration;

(*c*) in the case of a taxable supply of real property, for the purposes of sections 193 and 257, the tax payable in respect of the supply shall be deemed to be equal to tax calculated on the fair market value of the property at that time; and

(*d*) in the case of a supply included in section 9 of Part I, or in section 25 of Part VI, of Schedule V, for the purposes of sections 193 and 257, the supply shall be deemed to be a taxable supply and the tax payable in respect of the supply shall be deemed to be equal to tax calculated on the fair market value of the property at that time.

(3) Subsection 184(6) of the said Act, as enacted by subsection (1), is repealed and the following substituted therefor:

Sale of personal property

(6) For the purposes of this Part, where an insurer to whom personal property has been transferred from a person in circumstances in which subsection (1) applies makes at any time a particular taxable supply of the property by way of sale (other than a supply deemed, under any provision of this Part other than section 177, to have been made), the insurer was not deemed under subsection (4), (5) or (7) to have received a supply of the property at an earlier time and no tax would have been payable by the insurer had the insurer purchased the property from the person in Canada at the time it was transferred, except where

(*a*) the particular supply is made outside Canada or is a zero-rated supply, and

(*b*) the property was transferred to the insurer before 1994 or was, at the time of the transfer, used specified tangible personal property having a fair market value in excess of the amount prescribed in respect of the property for the purposes of section 176, the insurer shall be deemed

(*c*) to have received a supply of the property immediately before that time for consideration equal to the consideration for the particular supply, and

(*d*) to have paid, immediately before that time, tax in respect of the supply deemed under paragraph (*c*) to have been received equal to the amount determined by the formula

$$A - B$$

where

A is tax calculated on that consideration, and

B is the total of all amounts each of which is an input tax credit or a rebate under this Part that the insurer was entitled to claim in respect of the property or an improvement thereto.

(4) All that portion of subsection 184(7) of the said Act preceding paragraph (*a*) thereof, as enacted by subsection (1), is repealed and the following substituted therefor:

Lease of personal property

(7) For the purposes of this Part, where at any time an insurer to whom personal property has been transferred from a person in circumstances in which subsection (1) applies makes a particular taxable supply of the property by way of lease, licence or similar arrangement, the insurer was not deemed under subsection (4) or (5) to have received a supply of the property at an earlier time and no tax would have been payable had the property been purchased in Canada from the person at the time the property was transferred, except where

(5) Subsection (1) shall be deemed to have come into force on December 17, 1990 except that

(*a*) where an insurer begins, on or before ANNOUNCEMENT DATE, to use property in circumstances in which subsection 184(4) of the said Act, as enacted by subsection (1), applies, in applying the said subsection 184(4) to the insurer in respect of that property, it shall be read without reference to subparagraph (*a*)(ii) thereof; and

(*b*) where an insurer begins, on or before ANNOUNCEMENT DATE, to use property in circumstances in which subsection 184(5) of the said Act, as enacted by subsection (1), applies, in applying the said subsection 184(5) to the insurer in respect of that property, it shall be read without reference to subparagraph (*a*)(ii) thereof.

(6) Subsections (2) to (4) apply to property transferred after March 27, 1991.

48. (1) Subsection 186(1) of the said Act is repealed and the following substituted therefor:

Related corporations

186. (1) Where

(*a*) a registrant (in this subsection referred to as the "parent") that is a corporation resident in Canada acquires or imports at any time particular property or a service that can reasonably be regarded as having been acquired or imported at that time by the parent for consumption or use in relation to shares of the capital stock, or indebtedness, of another corporation that is at that time related to the parent, and

(*b*) at the time that tax in respect of the acquisition or importation becomes payable, or is paid without having become payable, by the parent, all or substantially all of the property of the other corporation is property that was last acquired or imported by the other corporation for consumption, use or supply by the other corporation exclusively in the course of its commercial activities,

except where subsection (2) applies, for the purposes of determining an input tax credit of the parent, the parent shall be deemed to have acquired or imported the particular property or service for use in the course of commercial activities of the parent to the extent that the parent can reasonably be regarded as having acquired or imported the particular property or service for consumption or use in relation to the shares or indebtedness.

(2) Subsection 186(3) of the said Act is repealed and the following substituted therefor:

Shares etc. held by corporation

(3) Where at any time all or substantially all of the property of a particular corporation is property that was acquired or imported by it

for consumption, use or supply exclusively in the course of its commercial activities, all shares of the capital stock of the particular corporation owned by, and all indebtedness of the particular corporation owed to, any other corporation that is related to the particular corporation shall, for the purposes of this section, be deemed to be, at that time, property that was acquired by the other corporation for use exclusively in the course of its commercial activities.

(3) Subsection (1) applies to any property or service acquired or imported for consumption or use in relation to shares of the capital stock, or indebtedness, of a corporation where tax in respect of the acquisition or importation becomes payable after ANNOUNCEMENT DATE or is paid after that date without having become payable.

(4) Subsection (2) shall be deemed to have come into force on December 17, 1990.

(5) Where

(*a*) a particular corporation resident in Canada applies for registration in the circumstances described in paragraph 240(3)(d) of the said Act, as enacted by subsection 94(2), before the day that is 60 days after the day this Act is assented to and, as a consequence, the Minister of National Revenue registers the particular corporation under section 241 of the said Act, and

(*b*) before the effective date of the registration, tax under Part IX of the said Act was paid or became payable by the particular corporation in respect of property or a service acquired or imported by the particular corporation for consumption or use in relation to

(i) shares, owned by the particular corporation, of the capital stock of another corporation that was related to the particular corporation,

(ii) indebtedness, held by the particular corporation, of another corporation that was related to the particular corporation, or

(iii) the acquisition or proposed acquisition by the particular corporation of all or substantially all of the issued and outstanding shares of the capital stock of another corporation having full voting rights under all circumstances,

for the purposes of determining an input tax credit of the particular corporation in respect of the property or service, the particular corporation shall be deemed to have been a registrant at all times and to have acquired or imported the property or service for consumption or use in commercial activities of the particular corporation to the same extent that the particular corporation would, if it were a registrant at all times, be deemed under section 186 of the said Act, as amended by subsections (1) and (2), to have acquired or imported the property or service for consumption or use in commercial activities of the particular corporation.

49. (1) The said Act is further amended by adding thereto, immediately after section 189 thereof, the following headings and sections:

Fees

Government fees

189.1 For the purposes of this Part, where an amount is required to be paid to a government or municipality or a board, commission or other body established by a government or municipality, by a person who is the holder of, or applicant for, a right the supply of which is included in section 20 of Part VI of Schedule V, for purposes of recovering the costs of administration of a regulatory program relating to the right, the government shall be deemed to have made an exempt supply to the person and the amount shall be deemed to be consideration for the supply.

Foreign Conventions

Foreign conventions

189.2 Where a sponsor of a foreign convention

(*a*) makes a supply of an admission to the convention, or

(*b*) makes a supply by way of lease, licence or similar arrangement of real property for use by the recipient of the supply exclusively as the site for the promotion, at the convention, of property or services supplied by, or a business of, the recipient,

the supply shall be deemed to have been made otherwise than in the course of a commercial activity of the sponsor.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

50. (1) Subparagraph 190(1)(*a*)(i) of the said Act is repealed and the following substituted therefor:

(i) last acquired by the person to hold or use as a residential complex, or

(2) Paragraph 190(1)(*f*) of the said Act is repealed and the following substituted therefor:

(*f*) except where the person is an individual who acquires the property at that time to hold or use as a residential complex otherwise than in the course of a business of the person or an adventure or concern of the person in the nature of trade, the person shall be deemed to be a builder of the complex.

(3) Section 190 of the said Act is further amended by adding thereto the following subsections:

Lease of land for residential use

(3) Where

(*a*) a person who has an interest in land makes a supply of the land by way of lease, licence or similar arrangement and the supply is an exempt supply described by paragraph 6.1(*a*) or 7(*a*) of Part I of Schedule V,

(*b*) the person at any time gives possession of the land to the recipient of the supply under the arrangement,

(*c*) the last use of the land by the person before that time was not under an arrangement for a supply referred to in paragraph (*a*),

(*d*) the person was not deemed under subsection 200(2), 206(4) or 207(1) to have made a supply of the land at or immediately before that time, and

(*e*) the recipient of the supply is not acquiring possession of the land for the purpose of

(i) constructing a residential complex thereon in the course of a commercial activity, or

(ii) making an exempt supply of the land described by paragraph 6.1(*a*) of Part I of Schedule V,

the person shall, for the purposes of this Part, be deemed

(*f*) to have made, immediately before that time, a taxable supply by way of sale of the land and to have collected, at that time, tax in respect of the supply calculated on the fair market value of the land at that time, and

(*g*) to have received, at that time, a taxable supply by way of sale of the land and to have paid, at that time, tax in respect of that supply calculated on the fair market value of the land at that time.

First use of residential trailer park

(4) Where

(*a*) a person makes a supply of a site in a residential trailer park of the person by way of lease, licence or similar arrangement and the supply is an exempt supply described by paragraph 7(*b*) of Part I of Schedule V,

(*b*) the person at any time gives possession or occupancy of the site to the recipient of the supply under the arrangement,

(*c*) none of the sites in the park were occupied immediately before that time under an arrangement for a supply referred to in paragraph (*a*), and

(*d*) either

(i) the last acquisition of the park by the person was not under an exempt supply described by section 5.3 of Part I of Schedule V and the person was not deemed

(A) under this subsection to have made before that time, or

(B) under subsection 200(2), 206(4) or 207(1) to have made at or immediately before that time, a supply of land included in the park as a consequence of using the land for purposes of the park, or

(ii) the person was entitled, after the park or land was last acquired or deemed to have been supplied by the person, to claim an input tax credit in respect of the acquisition thereof or an improvement thereto,

the person shall, for the purposes of this Part, be deemed

(*e*) to have made, immediately before that time, a taxable supply by way of sale of the park and to have collected, at that time, tax in respect of the supply calculated on the fair market value of the park at that time, and

(*f*) to have received, at that time, a taxable supply by way of sale of the park and to have paid, at that time, tax in respect of the supply calculated on the fair market value of the park at that time.

First use of additional area

(5) Where

(*a*) a person increases the area of land included in a residential trailer park of the person,

(*b*) the person makes a supply of a site in the area of land by which the park was increased (in this subsection referred to as the "additional area") by way of lease, licence or similar arrangement and the supply is an exempt supply described by paragraph 7(*b*) of Part I of Schedule V,

(*c*) the person at any time gives possession or occupancy of the site to the recipient of the supply under the arrangement,

(*d*) none of the sites in the additional area were occupied immediately before that time under an arrangement for a supply referred to in paragraph (*b*), and

(*e*) either

(i) the last acquisition of the additional area by the person was not under an exempt supply described by section 5.3 of Part I of Schedule V and the person was not deemed

(A) under this section to have made before that time, or

(B) under subsection 200(2), 206(4) or 207(1) to have made at or before that time,

a supply of the additional area as a consequence of using the additional area for purposes of the park, or

(ii) the person was entitled, after the additional area was last acquired or deemed to have been supplied by the person, to claim an input tax credit in respect of the acquisition thereof or an improvement thereto,

the person shall, for the purposes of this Part, be deemed

(*f*) to have made, immediately before that time, a taxable supply by way of sale of the additional area and to have collected, at that time, tax in respect of the supply calculated on the fair market value of the additional area at that time, and

(*g*) to have received, at that time, a taxable supply by way of sale of the additional area and to have paid, at that time, tax in respect of the supply calculated on the fair market value of the additional area at that time.

(4) Subsections (1) and (2) shall be deemed to have come into force on December 17, 1990.

(5) Subsection 190(3) of the said Act, as enacted by subsection (3), applies to any supply of land where possession of the land is transferred to the recipient after March 27, 1991 other than a supply of land where the possession of the land is transferred under an agreement in writing entered into before March 28, 1991.

(6) Subsections 190(4) and (5) of the said Act, as enacted by subsection (3), apply to any supply of a site in a residential trailer park other than a supply under which possession or occupancy of the site is transferred to the recipient before November 6, 1991 or under a lease, licence or similar arrangement in writing entered into before that day.

51. (1) The said Act is further amended by adding thereto, immediately after section 190 thereof, the following section:

Construction of mobile or floating home

190.1 (1) For the purposes of this Part, any person who makes a supply of a mobile home or floating home before it has been used or occupied by any individual as a place of residence or lodging shall be deemed to have engaged in the construction of the home and to have substantially completed the construction at the earlier of the time ownership of the home is transferred to the recipient of the supply and the time possession of the home is transferred to the recipient under the agreement for the supply.

Substantial renovation of mobile or floating home

(2) For the purposes of this Part, where a person engages in the substantial renovation of a mobile home or a floating home, the home shall be deemed not to have been used or occupied, at any time before the person began to substantially renovate the home, by any individual as a place of residence or lodging.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990 except that subsection 190.1(2) of the said Act, as enacted by subsection (1), does not apply to the substantial renovation of a mobile home or floating home where

(*a*) the substantial renovation is substantially completed on or before ANNOUNCEMENT DATE; or

(*b*) the substantial renovation is carried out for the purpose of making a supply of the mobile home or floating home under an agreement in writing entered into on or before ANNOUNCEMENT DATE.

52. (1) Subsection 191(1) of the said Act is repealed and the following substituted therefor:

Self-supply of single unit residential complex or residential condominium unit

191. (1) For the purposes of this Part, where

(*a*) the construction or substantial renovation of a residential complex that is a single unit residential complex or a residential condominium unit is substantially completed,

(*b*) the builder of the complex

(i) gives possession of the complex to a particular person under a lease, licence or similar arrangement entered into for the purpose of its occupancy by an individual as a place of residence and the particular person is not a purchaser under an agreement of purchase and sale of the complex, or

(ii) where the builder is an individual, occupies the complex as a place of residence, and

(*c*) the builder, the particular person or an individual who is a tenant or licensee of the particular person is the first individual to occupy the complex as a place of residence after substantial completion of the construction or renovation,

the builder shall be deemed

(*d*) to have made and received, at the later of the time the construction or substantial renovation is substantially completed and the time possession of the complex is so given to the particular person or the complex is so occupied by the builder, a taxable supply by way of sale of the complex, and

(*e*) to have paid as a recipient and to have collected as a supplier, at the later of those times, tax in respect of the supply calculated on the fair market value of the complex at the later of those times.

(2) Paragraph 191(1)(*b*) of the said Act, as enacted by subsection (1), is repealed and the following substituted therefor:

(*b*) the builder of the complex

(i) gives possession of the complex to a particular person under a lease, licence or similar arrangement (other than an arrangement, under or arising as a consequence of an agreement of purchase and sale of the complex, for the possession or occupancy of the complex until ownership of the complex is transferred to the purchaser under the agreement) entered into for the purpose of its occupancy by an individual as a place of residence,

(ii) gives possession of the complex to a particular person under an agreement for

(A) the supply by way of sale of the building or part thereof in which the residential unit forming part of the complex is located, and

(B) the supply by way of lease of the land forming part of the complex or the supply of such a lease by way of assignment,

other than an agreement for the supply of a mobile home and a site for the home in a residential trailer park, or

(iii) where the builder is an individual, occupies the complex as a place of residence, and

(3) Paragraphs 191(2)(*e*) and (*f*) of the said Act are repealed and the following substituted therefor:

(*e*) to have made and received, at the time the agreement is terminated, a taxable supply by way of sale of the unit, and

(*f*) except where possession of the unit was transferred to the particular person before 1991, to have paid as a recipient and to have collected as a supplier, at that time, tax in respect of the supply calculated on the fair market value of the unit at that time.

(4) Paragraphs 191(3)(*d*) and (*e*) of the said Act are repealed and the following substituted therefor:

(*d*) to have made and received, at the later of the time the construction or substantial renovation is substantially completed and the time possession of the unit is so given to the particular person or the unit is so occupied by the builder, a taxable supply by way of sale of the complex, and

(*e*) to have paid as a recipient and to have collected as a supplier, at the later of those times, tax in respect of the supply calculated on the fair market value of the complex at the later of those times.

(5) Paragraphs 191(4)(*d*) and (*e*) of the said Act are repealed and the following substituted therefor:

(*d*) to have made and received, at the later of the time the construction of the addition is substantially completed and the time possession of the unit is so given to the particular person or the unit is so occupied by the builder, a taxable supply by way of sale of the addition, and

(*e*) to have paid as a recipient and to have collected as a supplier, at the later of those times, tax in respect of the supply calculated on the fair market value of the addition at the later of those times.

(6) All that portion of subsection 191(7) of the said Act following paragraph (a) thereof is repealed and the following substituted therefor:

(*b*) the construction or substantial renovation of the complex or addition is carried out, or the complex is acquired, for the purpose of providing a place of residence or lodging for an employee of the registrant at a location at which the employee is required to be in the performance of the duties of the employee's office or employment and at which, because of its remoteness, the employee could not reasonably be expected to establish and maintain a self-contained domestic establishment, and

(*c*) the registrant elects under this subsection in respect of the residential complex or the addition,

until the complex is supplied by way of sale, or is supplied by way of lease, licence or similar arrangement primarily to persons who are not employees of the registrant or individuals who are related to the employees, the supply of the complex or a residential unit therein as a place of residence of lodging shall be deemed not to be a supply and any occupation of the complex or unit as a place of residence or lodging shall be deemed not to be occupation as a place of residence or lodging.

(7) Paragraph 191(7)(*c*) of the said Act, as enacted by subsection (6), is repealed and the following substituted therefor:

(*c*) the registrant makes, under this subsection, an election in prescribed form containing prescribed information in respect of the residential complex or the addition,

(8) Subsection 191(8) of the said Act is repealed.

(9) Subsections (1) and (3) to (6) shall be deemed to have come into force on December 17, 1990.

(10) Subsection (2) applies to any supply of a residential complex, other than a supply under which possession is transferred to the recipient of the supply before March 28, 1991 or a supply under an agreement in writing entered into before March 28, 1991.

(11) Subsections (7) and (8) apply to any election made under subsection 191(7) of the said Act in respect of a residential complex or an addition to a residential complex the construction or substantial renovation of which is substantially completed after April 26, 1992.

53. (1) Paragraph (*b*) of the description of A in subsection 193(1) of the said Act is repealed and the following substituted therefor:

(*b*) the tax payable or deemed to have been collected, as the case may be, in respect of the taxable supply of the property at the particular time; and

(2) Subsection 193(1) of the said Act, as amended by subsection (1), and subsection 193(2) of the said Act are repealed and the following substituted therefor:

Sale of real property

193. (1) Where at a particular time a registrant makes a particular taxable supply of real property by way of sale, other than

(*a*) a supply deemed under subsection 206(5) or 207(2) to have been made, or

(*b*) a supply made by a public sector body (other than a financial institution) of property in respect of which an election by the body under section 211 is not in effect at the particular time,

the registrant may, notwithstanding section 170 and Subdivision d, claim an input tax credit for the reporting period in which tax in respect of the particular taxable supply becomes payable or is deemed to have been collected, as the case may be, equal to the amount determined by the formula

$$A \times B \times C$$

where

A is the lesser of

(*a*) the total (in this subsection referred to as the "total tax charged in respect of the property") of the tax that was payable by the registrant in respect of the last acquisition of the property by the registrant and the tax that was payable by the registrant in respect of improvements to the property acquired or imported by the registrant after the property was last so acquired, and

(*b*) the tax that is or would, but for section 167, be payable in respect of the particular taxable supply;

B is the percentage that, immediately before the particular time, the use of the property otherwise than in commercial activities of the registrant was of the total use of the property; and

C is

(*a*) where the registrant was entitled to claim a rebate under section 259 in respect of any tax included in the total tax charged in respect of the property and the particular taxable supply is not deemed under subsection 206(4) to have been made, the difference between 100% and the percentage prescribed for the purposes of that section that applied in determining the amount of that rebate, and

(*b*) in any other case, 100%.

Sale by public sector bodies

(2) Where, at a particular time, a registrant that is a public sector body (other than a financial institution) makes a particular taxable supply of real property by way of sale (other than a supply that is deemed under subsection 200(2) to have been made) and, immediately before the time tax becomes payable in respect of the particular taxable supply, the property was not used by the registrant primarily in commercial activities of the registrant, except where subsection (1) applies, the registrant may, notwithstanding section 170 and Subdivision d, claim an input tax credit for the reporting period in which tax in respect of the particular taxable supply became payable or is deemed to have been collected, as the case may be, equal to the amount determined by the formula

$$A \times B$$

where

A is the lesser of

(*a*) the total (in this subsection referred to as the "total tax charged in respect of the property") of the tax that was payable by the registrant in respect of the last acquisition of the property by the registrant and the tax that was payable by the registrant in respect of improvements to the property acquired or imported by the registrant after the property was last so acquired, and

(*b*) the tax that is or would, but for section 167, be payable in respect of the particular taxable supply; and

B is

(*a*) where the registrant was entitled to claim a rebate under section 259 in respect of any tax included in the total tax charged in respect of the property, the difference between 100% and the percentage prescribed for the purposes of that section that applied in determining the amount of that rebate, and

(*b*) in any other case, 100%.

(3) Subsection (1) shall be deemed to have come into force on December 17, 1990.

(4) Subsection (2) shall be deemed to have come into force on THE DAY IMMEDIATELY FOLLOWING ANNOUNCEMENT DATE.

54. (1) All that portion of section 194 of the said Act preceding paragraph (*a*) thereof is repealed and the following substituted therefor:

Incorrect statement

194. For the purposes of this Part, where a supplier makes a taxable supply by way of sale of real property and incorrectly states or certifies in writing to the recipient of the supply that the supply is an exempt supply described in any of sections 2 to 5.3, 8 and 9 of Part I of Schedule V, except where the recipient knows or ought to know that the supply is not an exempt supply,

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

55. (1) Section 195 of the said Act is repealed and the following substituted therefor:

Prescribed property

195. For the purposes of this Part, where a person acquires or imports prescribed property for use as capital property of the person, the property shall be deemed to be personal property and not real property.

Residential complex not capital property

195.1 (1) For the purposes of this Part, a residential complex shall be deemed not to be, at a particular time, capital property of a builder of the complex unless,

(a) at or before the particular time, the construction or substantial renovation of the complex was substantially completed; and

(b) at or after the time the construction or substantial renovation of the complex was substantially completed and at or before the particular time, the builder received an exempt supply of the complex or was deemed under section 191 to have received a taxable supply of the complex.

Addition not capital property

(2) For the purposes of this Part, an addition to a multiple unit residential complex shall be deemed not to be, at a particular time, capital property of a builder of the addition unless,

(a) at or before the particular time, the construction of the addition was substantially completed; and

(b) at or after the time the construction of the addition was substantially completed and at or before the particular time, the builder received an exempt supply of the complex or was deemed under subsection 191(4) to have received a taxable supply of the addition.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

56. (1) The said Act is further amended by adding thereto, immediately after section 195.1 thereof, as enacted by section 55, the following section:

Last acquisition or importation

195.2 (1) For the purposes of this Part, other than Division III and Schedule VII, an importation of property shall not be considered in determining the last acquisition or importation of the property where

(a) tax under Division III was not paid on the property in respect of that importation because the goods were included in section 1 or 9 of Schedule VII or the goods were included in section 8 of that Schedule and were classified under heading 98.13 or 98.14 of Schedule I to the *Customs Tariff* or would have been so classified but for Note 11(*a*) to Chapter 98 of that Schedule; or

(b) tax under Division III on the property in respect of that importation was calculated on a value determined under the *Value of Imported Goods (GST) Regulations*, other than section 8 or 12 or a prescribed section of those Regulations.

Importation of improvement

(2) For the purposes of this Part, other than Division III and Schedule VII, where a person imports capital property of the person that was improved outside Canada and tax under Division III is payable on a value, determined under the *Value of Imported Goods (GST) Regulations*, that does not exceed the value of the improvement, the importation shall be deemed to be an importation of the improvement.

(2) Subsection (1) shall be deemed to have come into force on THE DAY IMMEDIATELY FOLLOWING ANNOUNCEMENT DATE.

57. (1) Section 196 of the said Act is repealed and the following substituted therefor:

Intended and actual use

196. For the purposes of this Part, where a person at any time acquires or imports property for use to a particular extent in a particular way, the person shall be deemed to use the property immediately after that time to the particular extent in the particular way.

(2) Section 196 of the said Act, as enacted by subsection (1), and section 197 of the said Act are repealed and the following substituted therefor:

Intended and actual use

196. For the purposes of this Part, where a person at any time acquires, imports or appropriates property for use as capital property of the person to a particular extent in a particular way, the person shall be deemed to use the property immediately after that time to the particular extent in the particular way.

Appropriation to use as capital property

196.1 For the purposes of this Part, where a registrant, at a particular time, appropriates property of the registrant for use as capital property of the registrant or in improving capital property of the registrant and, immediately before the particular time, the property was not capital property of the registrant or an improvement to capital property of the registrant,

(*a*) the registrant shall be deemed

(i) to have made, immediately before the particular time, a supply of the property by way of sale, and

(ii) where the property was last acquired or imported by the registrant before the particular time for consumption, use or supply, or was consumed or used before the particular time, in the course of commercial activities of the registrant, to have collected, at the particular time, tax in respect of the supply calculated on the fair market value of the property at the particular time; and

(*b*) the registrant shall be deemed to have received, at the particular time, a supply of the property by way of sale and to have paid, at the particular time, tax in respect of the supply equal to

(i) where the property was last acquired or imported by the registrant before the particular time for consumption, use or supply, or was consumed or used before the particular time, in the course of commercial activities of the registrant and the supply is not an exempt supply, tax calculated on the fair market value of the property at the particular time, and

(ii) in any other case, the amount determined by the formula

$$A \times B$$

where

A is the lesser of

(A) the tax that was payable by the registrant in respect of the last acquisition or importation of the property by the registrant, and

(B) tax calculated on the fair market value of the property at the particular time, and

B is

(A) where the registrant was entitled to claim a rebate under section 259 in respect of the tax that was payable by the registrant in respect of the last acquisition or importation of the property, the difference between 100% and the percentage prescribed for purposes of that section that applied in determining the amount of that rebate, and

(B) in any other case, 100%.

Insignificant changes in use

197. For the purposes of subsections 206(2), (3) and (5), 207(2) and 208(2) and (3), where in any period

(*a*) beginning on the later of

(i) the day a registrant last acquired or imported property for use as capital property of the registrant, and

(ii) the day subsection 206(3) or (5), 207(2) or 208(3) last applied to the property, and

(*b*) ending at any time after that day,

the extent to which the registrant changed the use of the property in commercial activities of the registrant is less than 10% of the total use of the property, the registrant shall be deemed to have used the property throughout that period to the same extent and in the same way as the registrant used the property at the beginning of that period, unless the registrant is an individual who began in that period to use the property primarily for the personal use and enjoyment of the individual or a related individual.

(3) Subsection (1) shall be deemed to have come into force on December 17, 1990.

(4) Subsection (2) shall be deemed to have come into force on April 1, 1991.

58. (1) Section 198 of the said Act is repealed and the following substituted therefor:

Use in supply of financial services

198. For the purposes of this Part, to the extent that a registrant who is not a financial institution uses property as capital property of the registrant in the making of supplies of financial services that relate to commercial activities of the registrant, the registrant shall be deemed to use the property in those commercial activities.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

59. (1) The said Act is further amended by adding thereto, immediately after section 198 thereof, the following section:

Change in use caused by operation of Part

198.1 Where

(*a*) a registrant, because of the enactment of an amendment to this Part or Schedule V, is deemed under subsection 200(2), 203(2), 206(4) or 207(1) to have made a supply of property and to have collected, at a particular time, tax in respect of the supply, or

(*b*) a registrant, because of

(i) the operation of paragraph 171(3)(*b*),

(ii) the application of paragraph 171.1(1)(*b*) at the time the registration of the registrant under this Part ceases to apply to particular commercial activities of the registrant, or

(iii) a branch or division of the registrant becoming a small supplier division within the meaning assigned by subsection 129(1),

is deemed under subsection 200(2), 203(2), 206(4) or 207(1) to have made a particular supply of

(iv) property that was originally supplied to or imported by the registrant before 1991, or

(v) tangible personal property that was originally supplied to the registrant in Canada before 1994 as used tangible personal property in circumstances in which tax was not payable in respect of the supply, and to have collected, at a particular time, tax in respect of the particular supply,

for the purposes of determining the amount of tax that is deemed under that subsection to have been collected or paid at the particular time, the amount of tax calculated on the fair market value of the property at the particular time shall be deemed not to exceed the total of the tax that was or would, but for section 167, have been payable by the registrant in respect of the last acquisition or importation of the property by the registrant and the tax that was payable by the registrant in respect of improvements to the property acquired or imported by the registrant after the property was last so acquired or imported.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990 except that subparagraph 198.1(*b*)(i) of the said Act, as enacted by subsection (1), shall, in respect of a reduction, before April 1991, in the use in commercial activities of a person of property that was originally acquired or imported by the person before 1991, be read as follows:

(i) an election made by the registrant under subsection 150(1) becoming effective or the operation of paragraph 171(3)(*b*),

60. (1) Subsection 199(3) of the said Act is repealed and the following substituted therefor:

Beginning use of personal property

(3) For the purposes of this Part, where a registrant last acquired or imported personal property for use as capital property of the registrant but not for use primarily in commercial activities of the registrant and the registrant begins, at a particular time, to use the property as capital property primarily in commercial activities of the registrant, except where the registrant becomes a registrant at the particular time, the registrant shall be deemed

(*a*) to have received, at the particular time, a supply of the property by way of sale; and

(*b*) except where the supply is an exempt supply, to have paid, at the particular time, tax in respect of the supply equal to the amount determined by the formula

$$A \times B$$

where

A is the lesser of

(i) the total (in this subsection referred to as "the total tax charged in respect of the property") of the tax that was or would, but for section 167, have been payable by the registrant in respect of the last acquisition or importation of the property by the registrant and the tax that was payable by the registrant in respect of improvements to the property acquired or imported by the registrant after the property was last so acquired or imported, and

(ii) tax calculated on the fair market value of the property at the particular time; and

B is

(i) where the registrant was entitled to claim a rebate under section 259 in respect of any tax included in the total tax charged in respect of the property, the difference between 100% and the percentage prescribed for purposes of that section that applied in determining the amount of that rebate, and

(ii) in any other case, 100%.

(2) Subsection 199(4) of the said Act is repealed and the following substituted therefor:

Improvement to capital personal property

(4) Where a registrant acquires or imports an improvement to personal property that is capital property of the registrant, tax payable by the registrant in respect of the acquisition or importation of the improvement shall not be included in determining an input tax credit of the registrant unless, at the time that tax becomes payable or is paid without having become payable, the capital property is used primarily in commercial activities of the registrant.

(3) Subsection (1) shall be deemed to have come into force on THE DAY IMMEDIATELY FOLLOWING ANNOUNCEMENT DATE.

(4) Subsection (2) applies to improvements acquired or imported after March 1991.

61. (1) Subsections 200(2) and (3) of the said Act are repealed and the following substituted therefor:

Ceasing use of personal property

(2) For the purposes of this Part, where a registrant last acquired or imported personal property for use as capital property primarily in commercial activities of the registrant and the registrant begins, at a particular time, to use the property primarily for other purposes, the registrant shall be deemed

(*a*) to have made, immediately before the particular time, a supply of the property by way of sale and to have collected, at the particular time, tax in respect of the supply calculated on the fair market value of the property at the particular time; and

(*b*) to have received, at the particular time, a supply of the property by way of sale and to have paid, at the particular time, tax in respect of the supply calculated on the fair market value of the property at the particular time.

Sale of personal property

(3) Notwithstanding paragraph 141.1(1)(*a*), for the purposes of this Part, where a registrant makes a supply by way of sale of personal property that is capital property of the registrant and, before the earlier of the time that ownership of the property is transferred to the recipient of the supply and the time possession of the property is transferred to the recipient under the agreement for the supply, the registrant was last using the property otherwise than primarily in commercial activities of the registrant, the supply shall be deemed to be made in the course of activities of the registrant that are not commercial activities.

(2) Section 200 of the said Act is further amended by adding thereto the following subsection:

Sale of personal property of a government

(4) Notwithstanding paragraph 141.1(1)(*b*) and subsection (3), for the purposes of this Part, where a government (other than a specified Crown agent) makes a supply by way of sale of personal property that is capital property of the government, the supply shall be deemed to have been made in the course of commercial activities of the government.

(3) Subsection (1) shall be deemed to have come into force on ANNOUNCEMENT DATE except that in applying subsection 200(3) of the said Act, as enacted by subsection (1), to supplies of property under which ownership or possession of the property is transferred to the recipient of the supply on or before that date, it shall be read as follows:

(3) Notwithstanding paragraph 141.1(1)(*a*), for the purposes of this Part, where a registrant makes a supply by way of sale of personal property that is capital property of the registrant and, immediately before ownership of the property is transferred to the recipient of the supply, the registrant was using the property otherwise than primarily in commercial activities of the registrant, the supply shall be deemed not to be a taxable supply.

(4) Subsection (2) applies to any supply of property other than a supply under which ownership or possession of the property is transferred to the recipient of the supply before November 6, 1991.

62. (1) Section 201 of the said Act is repealed and the following substituted therefor:

Value of passenger vehicle

201. For the purposes of determining an input tax credit of a registrant who at any time acquires or imports a passenger vehicle for use as capital property in commercial activities of the registrant, the tax payable by the registrant in respect of the acquisition or importation of the vehicle at that time shall be deemed to be the lesser of

(*a*) the tax that was payable by the registrant in respect of the acquisition or importation of the vehicle at that time; and (*b*) the amount determined by the formula

A x B

where

A is the tax that would be payable by the registrant in respect of the vehicle if the registrant acquired the vehicle for consideration equal to the amount deemed under paragraph 13(7)(*g*) or (*h*) of the *Income Tax Act* to be, for the purposes of section 13 of that Act, the capital cost to a taxpayer of a passenger vehicle to which that paragraph applies, and

B is

(i) where the registrant is deemed under subsection 199(3) or 206(2) or (3) to have acquired the vehicle or a portion thereof at that time and the registrant was entitled to claim a rebate under section 259 in respect of any acquisition or importation of the vehicle or any improvement thereto, the difference between 100% and the percentage prescribed for the purposes of that section that applied in determining the amount of that rebate, and

(ii) in any other case, 100%.

(2) Subsection (1) shall be deemed to have come into force on THE DAY IMMEDIATELY FOLLOWING ANNOUNCEMENT DATE.

63. (1) Subsection 202(2) of the said Act is repealed and the following substituted therefor:

Input tax credit on passenger vehicle or aircraft

(2) Where a registrant who is an individual or a partnership acquires or imports a passenger vehicle or aircraft for use as capital property of the registrant, the tax payable (other than tax deemed to be payable under subsection (4)) by the registrant in respect of the acquisition or importation shall not be included in determining an input tax credit of the registrant unless the vehicle or aircraft was acquired or imported for use exclusively in commercial activities of the registrant.

(2) Subsection 202(3) of the said Act is repealed and the following substituted therefor:

Improvement to passenger vehicle or aircraft

(3) Where a registrant who is an individual or a partnership acquires or imports an improvement to a passenger vehicle or aircraft that is capital property of the registrant, the tax payable by the registrant in respect of the improvement shall not be included in determining an input tax credit of the registrant unless, throughout the period

(*a*) beginning on the day the vehicle or aircraft, as the case may be, was acquired or imported by the registrant, and

(*b*) ending on the day tax in respect of the improvement becomes payable or is paid without having become payable,

the vehicle or aircraft was used exclusively in commercial activities of the registrant.

(3) Paragraph 202(3)(*a*) of the said Act, as enacted by subsection (2), is repealed and the following substituted therefor:

(*a*) beginning on the later of the day the vehicle or aircraft, as the case may be, was originally acquired or imported by the registrant and the day the individual or partnership becomes a registrant, and

(4) Subsection 202(4) of the said Act is repealed and the following substituted therefor:

Non-exclusive use of passenger vehicle or aircraft

(4) Notwithstanding subsections (2) and (3), where a registrant who is an individual or a partnership at any time acquires or imports a passenger vehicle or aircraft, in respect of which tax is payable by the registrant, for use as capital property of the registrant but not for use exclusively in commercial activities of the registrant, for the purposes of determining an input tax credit of the registrant, the registrant shall be deemed

(*a*) to have acquired the vehicle or aircraft on the last day of each taxation year of the registrant ending after that time; and (*b*) to have paid, on that day, tax in respect of the acquisition of the vehicle or aircraft equal to the amount determined by the formula

$$A \times B$$

where

A is the tax fraction; and

B is

(i) where an amount in respect of the vehicle or aircraft is required by paragraph 6(1)(*e*) or subsection 15(1) of the *Income Tax Act* to be included in computing the income of an individual for a taxation year of the individual ending in that taxation year of the registrant, nil; and

(ii) in any other case, the capital cost allowance in respect of the vehicle or aircraft that was deducted under the *Income Tax Act* in computing the income of the registrant from those commercial activities for that taxation year of the registrant.

(5) Subsection (1) shall be deemed to have come into force on THE DAY IMMEDIATELY FOLLOWING ANNOUNCEMENT DATE.

(6) Subsection (2) applies to improvements acquired or imported after March 1991.

(7) Subsection (3) applies to improvements acquired or imported after ANNOUNCEMENT DATE.

(8) Subsection (4) shall be deemed to have come into force on December 17, 1990 except that, in respect of taxation years of registrants ending before April 1991, the description of B in paragraph 202(4)(*b*) of the said Act, as enacted by subsection (4), shall be read as follows:

B is the capital cost allowance in respect of the vehicle or aircraft that was deducted under the *Income Tax Act* in computing the income of the registrant from those commercial activities for that taxation year of the registrant.

64. (1) Subsection 203(1) of the said Act is repealed and the following substituted therefor:

Sale of passenger vehicle

203. (1) Where a registrant, at a particular time in a reporting period of the registrant, makes a taxable supply by way of sale of a passenger vehicle that, immediately before the particular time, was used as capital property in commercial activities of the registrant, the registrant may, notwithstanding section 170, paragraphs 199(2)(*a*) and (4)(*a*) and subsection 202(1), claim an input tax credit for that period equal to the lesser of

(*a*) the amount determined by the formula

$$A - B$$

where

A is the total, determined without reference to section 201, of the tax that was payable by the registrant in respect of the original acquisition or importation of the vehicle by the registrant and the tax that was payable by the registrant in respect of improvements to the vehicle acquired or imported by the registrant after the property was so acquired or imported, and

B is the total of all input tax credits that the registrant was entitled to claim before the particular time in respect of the vehicle and improvements thereto; and

(*b*) the amount determined by the formula

$$C \times D/E$$

where

C is the amount determined under paragraph (*a*),

D is the lesser of the value of the consideration for the taxable supply and the amount determined for E, and

E is the total of all amounts, each of which is

(i) the consideration that was payable by the registrant or the value determined under section 215, as the case may be, in respect of the original acquisition or importation of the vehicle by the registrant, or

(ii) where the registrant acquired or imported an improvement to the vehicle, the consideration that was payable by the registrant or the value determined under section 215, as the case may be, in respect of the improvement.

(2) Paragraphs 203(1)(*a*) and (*b*) of the said Act, as enacted by subsection (1), are repealed and the following substituted therefor:

(*a*) the amount determined by the formula

$$A - B$$

where

A is the total, determined without reference to section 201, of the tax that was or would, but for section 167, have been payable by the registrant in respect of the last acquisition or importation of the vehicle by the registrant and the tax that was payable by the registrant in respect of improvements to the vehicle acquired or imported by the registrant after the property was last so acquired or imported, and

B is the total of all rebates under section 259 and input tax credits that the registrant was entitled to claim in respect of any tax included in the total for A; and

(*b*) the amount determined by the formula

$$C \times D/E$$

where

C is the amount determined under paragraph (*a*),

D is the lesser of the value of the consideration for the taxable supply and the amount determined for E, and

E is the total of all amounts, each of which is

(i) the consideration that was payable by the registrant or the value determined under section 215, as the case may be, in respect of the last acquisition or importation of the vehicle by the registrant, or

(ii) where the registrant acquired or imported an improvement to the vehicle after the vehicle was last so acquired or imported by the registrant, the consideration that was payable by the registrant or the value determined under section 215, as the case may be, in respect of the improvement.

(3) Paragraph 203(2)(*b*) of the said Act is repealed and the following substituted therefor:

(*b*) collected, at that time, tax in respect of the supply, calculated on that consideration.

(4) Subsection 203(3) of the said Act is repealed and the following substituted therefor:

Sale of passenger vehicle, etc.

(3) Notwithstanding paragraph 141.1(1)(*a*), for the purposes of this Part, where

(*a*) an individual or a partnership who is a registrant makes, at a particular time, a supply by way of sale of a passenger vehicle or an aircraft that is capital property of the registrant, and

(*b*) at any time after the individual or partnership became a registrant and before the particular time, the registrant did not use the vehicle or aircraft exclusively in commercial activities of the registrant,

the supply shall be deemed not to be a taxable supply.

(5) Subsection (1) applies to any supply of a passenger vehicle by way of sale other than a supply under which ownership or possession of the vehicle is transferred to the recipient before April 1991.

(6) Subsection (2) applies to any supply of a passenger vehicle by way of sale other than a supply under which ownership or possession of the vehicle is transferred to the recipient on or before ANNOUNCEMENT DATE.

(7) Subsection (3) shall be deemed to have come into force on December 17, 1990.

(8) Subsection (4) applies to any supply of a vehicle or aircraft other than a supply under which ownership or possession of the vehicle or aircraft is transferred to the recipient on or before ANNOUNCEMENT DATE.

65. (1) Sections 204 and 205 of the said Act are repealed and the following substituted therefor:

Application

204. (1) This section does not apply to personal property of a financial institution having a cost to the institution of $50,000 or less.

Personal property of a financial institution

(2) Where a financial institution is a registrant, subsections 206(2) to (5) apply, with such modifications as the circumstances require, to personal property acquired or imported by the institution for use as capital property of the institution, and to improvements to personal property that is capital property of the institution, as if the personal property were real property.

Credit on sale

(3) Where a financial institution is a registrant, subsection 193(1) applies, with such modifications as the circumstances require, to personal property (other than a passenger vehicle) acquired or imported by the institution for use as capital property of the institution, as if the personal property were real property.

Financial institution making election for exempt supplies

205. (1) Where an election made by a registrant under subsection 150(1) becomes effective at a particular time, the registrant was a financial institution immediately before the particular time and, as a result of the election becoming effective, the registrant reduces at the particular time the extent to which personal property of the registrant is used as capital property in commercial activities of the registrant, subsections 193(1) and 206(4) and (5) apply, with such modifications as the circumstances require, to the reduction in use as if the property were real property.

Registrant making election for exempt supplies

(2) Where,

(*a*) as a result of an election made by a registrant under subsection 150(1), a registrant at any time becomes a financial institution, (*b*) immediately before that time, the registrant was using personal property of the registrant as capital property primarily in commercial activities of the registrant, and

(*c*) immediately after that time, the property is not for use exclusively in commercial activities of the registrant,

the registrant shall be deemed, for the purposes of this Part, to have changed at that time the extent to which the property is used in commercial activities of the registrant and subsections 193(1) and 206(4) and (5) apply, with such modifications as the circumstances require, to the change in use as if the property were real property used immediately before that time exclusively in commercial activities of the registrant.

(2) Subsection 205(2) of the said Act, as enacted by subsection (1), is repealed and the following substituted therefor:

Registrant becoming financial institution

(2) Where a registrant at any time becomes a financial institution and, immediately before that time, the registrant was using personal property of the registrant as capital property of the registrant, the following rules apply:

(*a*) where, immediately before that time, the registrant was not using the property primarily in commercial activities of the registrant and, immediately after that time, the property is for use in commercial activities of the registrant, the registrant shall be deemed, for the purposes of this Part, to have changed at that time the extent to which the property is used in commercial activities of the registrant and subsection 206(2) applies, with such modifications as the circumstances require, to the change in use as if the property were real property that was not used immediately before that time in commercial activities of the registrant; and

(*b*) where, immediately before that time, the registrant was using the property primarily in commercial activities of the registrant and, immediately after that time, the property is not for use exclusively in commercial activities of the registrant, the registrant shall be deemed, for the purposes of this Part, to have changed at that time the extent to which the property is used in commercial activities of the registrant and subsections 193(1) and 206(4) and (5) apply, with such modifications as the circumstances require, to the change in use as if the property were real property used immediately before that time exclusively in commercial activities of the registrant.

Registrant ceasing to be financial institution

(3) Where a registrant at any time ceases to be a financial institution and, immediately before that time, the registrant was using personal property of the registrant as capital property of the registrant, the following rules apply:

(*a*) where, immediately before that time, the registrant was using the property as capital property but not exclusively in commercial activities of the registrant and, immediately after that time, the property is for use primarily in commercial activities of the registrant, the registrant shall be deemed, for the purposes of this Part, to have begun at that time to use the property exclusively in commercial activities of the registrant and subsection 206(2) and (3) apply, with such modifications as the circumstances require, to the change in use as if the property were real property; and

(*b*) where, immediately before that time, the registrant was using the property as capital property in commercial activities of the registrant and, immediately after that time, the property is not for use primarily in commercial activities of the registrant, the registrant shall be deemed, for the purposes of this Part, to have ceased at that time to use the property in commercial activities of the registrant and subsections 193(1) and 206(4) apply, with such modifications as the circumstances require, to the change in use as if the property were real property.

Acquisition of a business

(4) Notwithstanding section 197, where

(*a*) in acquiring a business or part of a business that was established or carried on by a registrant, a financial institution that is a registrant is deemed under subsection 167(1) to have acquired property for use exclusively in commercial activities of the institution, and

(*b*) immediately after the time possession of the property is transferred to the institution under the agreement for the supply of the business or part, the property is for use by the institution as capital property of the institution but not exclusively in commercial activities of the institution,

subsections 193(1) and 206(4) and (5) apply, with such modifications as the circumstances require, to the change in use of the property as if the property were real property.

Idem

(5) Notwithstanding section 197, where

(*a*) in acquiring a business or part of a business that was established or carried on by a registrant, a financial institution that is a registrant is deemed under subsection 167(1) to have acquired property but not for use in commercial activities of the institution,

(*b*) possession of the property is transferred to the institution under the agreement for the supply of the business or part after 1993, and

(*c*) immediately after the transfer, the property is for use by the institution as capital property of the institution in commercial activities of the institution,

subsection 206(2) applies, with such modifications as the circumstances require, to the change in use of the property as if the property were real property.

Amalgamation

(6) Where

(*a*) a particular corporation that is not a financial institution is merged or amalgamated with one or more other corporations to form a corporation (in this subsection referred to as the "new corporation") that is a financial institution in circumstances to which section 271 applies,

(*b*) the new corporation is a registrant, and

(*c*) personal property that was capital property of the particular corporation becomes at any time the property of the new corporation as a consequence of the merger or amalgamation,

subsection (2) applies to the property as if the new corporation became a financial institution at that time.

Winding-up

(7) Where

(*a*) a particular corporation that is not a financial institution is wound up at a particular time in circumstances to which section 272 applies,

(*b*) not less than 90% of the issued shares of each class of the capital stock of the corporation were, immediately before the particular time, owned by another corporation (in this subsection referred to as the "new corporation") that is a financial institution,

(*c*) the new corporation is a registrant, and

(*d*) personal property that was capital property of the particular corporation becomes at any time the property of the new corporation as a consequence of the winding-up,

subsection (2) applies to the property as if the new corporation became a financial institution at the particular time.

(3) Subsection (1) shall be deemed to have come into force on December 17, 1990.

(4) Subsection (2) shall be deemed to have come into force on THE DAY IMMEDIATLY FOLLOWING ANNOUNCEMENT DATE.

66. (1) Subsections 206(2) to (5) of the said Act are repealed and the following substituted therefor:

Beginning use in commercial activities

(2) For the purposes of this Part, where a registrant last acquired real property for use as capital property of the registrant but not for use in commercial activities of the registrant and the registrant begins, at a particular time, to use the property as capital property in commercial activities of the registrant, except where the registrant becomes a registrant at the particular time, the registrant shall be deemed

(*a*) to have received, at the particular time, a supply of the property by way of sale; and

(*b*) except where the supply is an exempt supply, to have paid, at the particular time, tax in respect of the supply equal to the amount determined by the formula

$$A \times B$$

where

A is the lesser of

(i) the total (in this subsection referred to as "the total tax charged in respect of the property") of the tax that was payable by the registrant in respect of the last acquisition of the property by the registrant and the tax that was payable by the registrant in respect of improvements to the property acquired or imported by the registrant after the property was last so acquired, and

(ii) tax calculated on the fair market value of the property at the particular time, and

B is

(i) where the registrant was entitled to claim a rebate under section 259 in respect of any tax included in the total tax charged in respect of the property, the difference between 100% and the percentage prescribed for purposes of that section that applied in determining the amount of that rebate, and

(ii) in any other case, 100%.

Increasing use in commercial activities

(3) Where a registrant last acquired real property for use as capital property in commercial activities of the registrant and the registrant increases, at a particular time, the extent to which the property is used in commercial activities of the registrant, for the purposes of determining an input tax credit of the registrant, the registrant shall be deemed

(*a*) to have received, immediately before the particular time, a supply of a portion of the property for use as capital property exclusively in commercial activities of the registrant; and

(*b*) except where the supply is an exempt supply, to have paid, at the particular time, tax in respect of the supply equal to the amount determined by the formula

$$A \times B \times C$$

where

A is the lesser of

(i) the total (in this subsection referred to as "the total tax charged in respect of the property") of the tax that was or would, but for section 167, have been payable by the registrant in respect of the last acquisition of the property by the registrant and the tax that was payable by the registrant in respect of improvements to the property acquired or imported by the registrant after the property was last so acquired, and

(ii) tax calculated on the fair market value of the property at the particular time,

B is the extent (expressed as a percentage of the total use of the property by the registrant at the particular time) to which the registrant increased the use of the property in commercial activities of the registrant at the particular time, and

C is

(i) where the registrant was entitled to claim a rebate under section 259 in respect of any tax included in the total tax charged in respect of the property, the difference between 100% and the percentage prescribed for purposes of that section that applied in determining the amount of that rebate, and

(ii) in any other case, 100%.

Ceasing use in commercial activities

(4) For the purposes of this Part, where a registrant last acquired real property for use as capital property in commercial activities of the registrant and the registrant begins, at a particular time, to use the property exclusively for other purposes, the registrant shall be deemed

(*a*) to have made, immediately before the particular time, a supply of the property by way of sale and, except where the supply is an exempt supply, to have collected, at the particular time, tax in respect of the supply equal to the amount determined by the formula

$$(A \times B \times C) + [D \times (100\% - B) \times E]$$

where

A is tax calculated on the fair market value of the property at the particular time,

B is the extent (expressed as a percentage of the total use of the property by the registrant immediately before the particular time) to which the registrant used the property in commercial activities of the registrant immediately before the particular time,

C is

(i) where the registrant was entitled to claim a rebate under section 259 in respect of any tax payable in respect of

(A) the last acquisition of the property by the registrant or, where the last acquisition of the property was deemed to have been made under subsection (2), the second last acquisition of the property by the registrant, or

(B) an improvement to the property acquired or imported by the registrant after the last or second last acquisition of the property by the registrant, as the case may be,

the difference between 100% and the percentage prescribed for purposes of that section that applied in determining the amount of that rebate,

(ii) in any other case, 100%,

D is the lesser of

(i) the total (in this subsection referred to as "the total tax charged in respect of the property") of the tax that was or would, but for section 167, have been payable by the registrant in respect of the last acquisition of the property by the registrant and the tax that was payable by the registrant in respect of improvements to the property acquired or imported by the registrant after the property was last so acquired, and

(ii) tax calculated on the fair market value of the property at the particular time, and

E is

(i) where the registrant was entitled to claim a rebate under section 259 in respect of any tax included in the total tax charged in respect of the property, the difference between 100% and the percentage prescribed for purposes of that section that applied in determining the amount of that rebate, and

(ii) in any other case, 100%; and

(*b*) to have received, at the particular time, a supply of the property by way of sale and, except where the supply is an exempt supply, to have paid, at the particular time, tax in respect of the supply equal to the amount determined under paragraph (*a*).

Reducing use in commercial activities

(5) Except where subsection (4) applies, where a registrant last acquired real property for use as capital property in commercial activities of the registrant and the registrant reduces, at a particular time, the extent to which the property is used in commercial activities of the registrant, for the purposes of determining the net tax of the registrant for the reporting period of the registrant that includes the particular time, the registrant shall be deemed

(*a*) to have made, immediately before the particular time, a supply of a portion of the property; and

(*b*) except where the supply is an exempt supply, to have collected, at the particular time, tax in respect of the supply equal to the amount determined by the formula

$$A \times B \times C$$

where

A is the lesser of

(i) the total (in this subsection referred to as "the total tax charged in respect of the property") of the tax that was or would, but for section 167, have been payable by the registrant in respect of the last acquisition of the property by the registrant and the tax that was payable by the registrant in respect of improvements to the property acquired or imported by the registrant after the property was last so acquired, and

(ii) tax calculated on the fair market value of the property at the particular time,

B is the extent (expressed as a percentage of the total use of the property by the registrant at the particular time) to which the registrant reduced the use of the property in commercial activities of the registrant at the particular time, and

C is

(i) where the registrant was entitled to claim a rebate under section 259 in respect of any tax included in the total tax charged in respect of the property, the difference between 100% and the percentage prescribed for purposes of that section that applied in determining the amount of that rebate, and

(ii) in any other case, 100%.

(2) Subsection (1) shall be deemed to have come into force on THE DAY IMMEDIATELY FOLLOWING ANNOUNCEMENT DATE.

67. (1) Section 207 of the said Act is repealed and the following substituted therefor:

Individual ceasing use in commercial activities

207. (1) For the purposes of this Part, where an individual who is a registrant last acquired real property for use as capital property in commercial activities of the individual, and not primarily for the personal use and enjoyment of the individual or a related individual, and the individual begins, at a particular time, to use the property exclusively for other purposes, or primarily for the personal use and enjoyment of the individual or a related individual, the individual shall be deemed

(*a*) to have made, immediately before the particular time, a supply of the property by way of sale and, except where the supply is an exempt supply, to have collected, at the particular time, tax in respect of the supply equal to the amount determined by the formula

$$(A \times B) + [C \times (100\% - B)] - D$$

where

A is tax calculated on the fair market value of the property at the particular time,

B is the extent (expressed as a percentage of the total use of the property by the individual immediately before the particular time) to which the individual used the property in commercial activities of the individual immediately before the particular time,

C is the lesser of

(i) the total of the tax that was or would, but for section 167, have been payable by the individual in respect of the last acquisition of the property by the individual and the tax that was payable by the individual in respect of improvements to the property acquired or imported by the individual after the property was last so acquired,

(ii) tax calculated on the fair market value of the property at the particular time, and

D is the tax, if any, that the individual is deemed under section 190 to have collected at the particular time in respect of the property; and

(*b*) to have received, at the particular time, a supply of the property by way of sale and, except where the supply is an exempt supply, to have paid, at the particular time, tax in respect of the supply equal to the amount determined under paragraph (*a*).

Individual reducing use in commercial activities

(2) Except where subsection (1) applies, where an individual who is a registrant last acquired real property for use as capital property in commercial activities of the individual and not primarily for the personal use and enjoyment of the individual or a related individual, and the individual reduces, at a particular time, the extent to which the property is used in commercial activities of the individual without beginning to use the property primarily for the personal use and enjoyment of the individual or a related individual, for the purposes

of determining the net tax of the individual, the individual shall be deemed

(*a*) to have made, immediately before the particular time, a supply by way of sale of a portion of the property; and

(*b*) except where the supply is an exempt supply, to have collected, at the particular time, tax in respect of the supply equal to the amount determined by the formula

$$(A \times B) - C$$

where

A is the lesser of

(i) the total of the tax that was or would, but for section 167, have been payable by the individual in respect of the last acquisition of the property by the individual and the tax that was payable by the individual in respect of improvements to the property acquired or imported by the individual after the property was last so acquired, and

(ii) tax calculated on the fair market value of the property at the particular time,

B is the extent (expressed as a percentage of the total use of the property by the individual at the particular time) to which the individual reduced the use of the property in commercial activities of the individual at the particular time, and

C is the tax, if any, that the individual is deemed under section 190 to have collected at the particular time in respect of the property.

(2) Subsection (1) shall be deemed to have come into force on THE DAY IMMEDIATELY FOLLOWING ANNOUNCEMENT DATE.

68. (1) Subsections 208(1) to (3) of the said Act are repealed and the following substituted therefor:

Acquisition of capital real property by individual

208. (1) Subject to this section, where an individual who is a registrant acquires real property for use as capital property of the individual but primarily for the personal use and enjoyment of the individual or a related individual, the tax payable by the individual in respect of the acquisition of the property shall not be included in determining an input tax credit of the individual.

Individual beginning use in commercial activities

(2) For the purposes of this Part, where an individual who is a registrant last acquired real property for use as capital property of the individual but primarily for the personal use and enjoyment of the individual or a related individual and the individual begins, at a particular time, to use the property as capital property in commercial activities of the individual and not primarily for the personal use and enjoyment of the individual or a related individual, the individual shall be deemed

(*a*) to have received, at the particular time, a supply by way of sale of the property; and

(*b*) except where the supply is an exempt supply, to have paid, at the particular time, tax in respect of the supply equal to the lesser of

(i) the total of the tax that was payable by the individual in respect of the last acquisition of the property by the individual and the tax that was payable by the individual in respect of improvements to the property acquired or imported by the individual after the property was last so acquired, and

(ii) tax calculated on the fair market value of the property at the particular time.

Individual increasing use in commercial activities

(3) Where an individual who is a registrant last acquired real property for use as capital property in commercial activities of the individual and not primarily for the personal use and enjoyment of the individual or a related individual, and the individual increases, at a particular time, the extent to which the property is used in commercial activities of the individual without beginning to use the property primarily for the personal use and enjoyment of the individual or a related individual, for the purposes of determining an input tax credit of the individual, the individual shall be deemed

(*a*) to have received, at the particular time, a supply by way of sale of a portion of the property for use as capital property exclusively in commercial activities of the individual; and

(*b*) except where the supply is an exempt supply, to have paid, at the particular time, tax in respect of the supply equal to the amount determined by the formula

$$A \times B$$

where

A is the lesser of

(i) the total of the tax that was or would, but for section 167, have been payable by the individual in respect of the last acquisition of the property by the individual and the tax that was payable by the individual in respect of improvements to the property acquired or imported by the individual after the property was last so acquired, and

(ii) tax calculated on the fair market value of the property at the particular time, and

B is the extent (expressed as a percentage of the total use of the property by the individual at the particular time) to which the individual increased the use of the property in commercial activities of the individual at the particular time.

(2) Subsection 208(4) of the said Act is repealed and the following substituted therefor:

Improvement to capital real property by individual

(4) Where an individual who is a registrant acquires or imports an improvement to real property that is capital property of the individual, the tax payable by the individual in respect of the improvement shall not be included in determining an input tax credit of the individual if, at the time that tax becomes payable or is paid without having become payable, the property is primarily for the personal use and enjoyment of the individual or a related individual.

(3) Subsection (1) shall be deemed to have come into force on THE DAY IMMEDIATELY FOLLOWING ANNOUNCEMENT DATE.

(4) Subsection (2) applies to improvements acquired or imported after March 1991.

69. (1) Sections 209 and 210 of the said Act are repealed and the following substituted therefor:

Real property of certain public sector bodies

209. (1) Where a registrant is a public service body (other than a financial institution or a government) or a specified Crown agent (other than a financial institution), subsections 199(2) to (4) and 200(2) to (4) apply, with such modifications as the circumstances require, to real property acquired by the registrant for use as capital property of the registrant, and to improvements to real property that is capital property of the registrant, as if the real property were personal property.

Exception

(2) Notwithstanding subsection (1), subsection 200(3) does not apply to

(*a*) a supply of a residential complex or an interest therein made by way of sale by a public service body; or

(*b*) a supply of real property made by way of sale by a public service body to an individual.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990 except that subsection 209(2) of the said Act, as enacted by subsection (1), does not apply to any supply of property where

(*a*) ownership or possession of the property is transferred to the recipient of the supply before November 6, 1991, or

(*b*) the supply is made under an agreement in writing entered into before November 6, 1991.

70. (1) Subsections 211(1) and (2) of the said Act are repealed and the following substituted therefor:

Election for real property of a public service body

211. (1) Where a public service body files an election made under this subsection in respect of (*a*) real property that is capital property of the body,

(*b*) real property of the body that is held by the body in inventory for the purpose of supply, or

(*c*) real property acquired by the body by way of lease, licence or similar arrangement for the purpose of making a supply of the property by way of lease, licence or similar arrangement or making a supply of the arrangement by way of assignment,

throughout the period the election is in effect, subsection 193(1) and section 206 apply, and section 209 does not apply, to the property.

Deemed sale where election

(2) For the purposes of this Part, where a public service body has filed an election made under subsection (1) in respect of real property described in paragraph (1)(*a*) or (*b*) that takes effect on a particular day and the body does not acquire the property on the particular day or become a registrant on the particular day, the body shall be deemed

(*a*) to have made, immediately before the particular day, a taxable supply of the property by way of sale and to have collected, on the particular day, tax in respect of the supply equal to the lesser of

(i) the total of the tax that was or would, but for section 167, have been payable by the body in respect of the last acquisition of the property by the body and the tax that was payable by the body in respect of improvements to the property acquired or imported by the body after the property was last so acquired, and

(ii) tax calculated on the fair market value of the property on the particular day; and

(*b*) to have received, on the particular day, a taxable supply of the property by way of sale and to have paid, on the particular day, tax in respect of the supply equal to the amount determined under paragraph (*a*).

(2) Subsection 211(4) of the said Act is repealed and the following substituted therefor:

Deemed sale where revocation

(4) For the purposes of this Part, where an election made under subsection (1) by a public service body in respect of real property

described in paragraph (1)(*a*) or (*b*) is revoked and ceases to be effective on a day and the body does not cease to be a registrant on that day, the body shall be deemed

(*a*) to have made, immediately before that day, a taxable supply of the property by way of sale and to have collected, on that day, tax in respect of the supply calculated on the fair market value of the property on that day; and

(*b*) to have received, on that day, a taxable supply of the property by way of sale and to have paid, on that day, tax in respect of the supply calculated on the fair market value of the property on that day.

(3) Subsections (1) and (2) shall be deemed to have come into force on November 6, 1991.

71. (1) Section 212 of the said Act is repealed and the following substituted therefor:

Imposition of tax

212. Subject to this Part, every person who is liable under the *Customs Act* to pay duty on imported goods, or who would be so liable if the goods were subject to duty, shall pay to Her Majesty in right of Canada a tax on the goods equal to 7% of the value of the goods.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

72. (1) The said Act is further amended by adding thereto, immediately after section 213 thereof, the following sections:

Security

213.1 For the purposes of this Division, the Minister may require a person mentioned in section 212 who imports goods to provide security, in an amount determined by the Minister and subject to such terms and conditions as the Minister may specify, for the payment of any amount that is or may become payable by the person under this Division where provisions of the *Customs Act*, the *Customs Tariff* or any other laws relating to customs under which security may be required do not apply to the payment of such amount.

Import certificate

213.2 (1) The Minister may, on the request of a registrant who imports goods, issue to the registrant, subject to such conditions as the Minister may specify, an import certificate in respect of goods of a particular class, indicating an effective date and bearing a number to be disclosed when such goods are accounted for under section 32 of the *Customs Act*, where it can reasonably be expected that the registrant will be importing such goods in circumstances in which the goods would be included in Schedule VII.

Application

(2) A request for an import certificate shall contain prescribed information and be filed with the Minister in prescribed manner.

Cancellation

(3) The Minister may, after giving a person to whom an import certificate has been issued reasonable written notice, cancel the import certificate of the person where

(*a*) the person fails to comply with any condition attached thereto or any provision of this Division,

(*b*) the Minister determines that it is no longer required for the purposes for which it was issued, or generally for the purposes of this Division, or

(*c*) it can reasonably be expected that the person will no longer be importing goods of a class in respect of which the certificate was issued in circumstances in which the goods would be included in Schedule VII,

and where the Minister cancels the import certificate of a person, the Minister shall notify the person in writing of the cancellation and the effective date thereof.

Application after cancellation

(4) Where the Minister has cancelled the certificate of a person in circumstances described in paragraph (3)(*a*), the Minister shall not issue a new certificate under subsection (1) before the day that is two years after the day on which the cancellation is effective.

Cessation

(5) An import certificate issued under this section ceases to have effect on the earlier of

(*a*) the effective date of the cancellation of the certificate under subsection (3); and

(*b*) the day that is three years after the effective date of the certificate.

(2) Subsection (1) shall be deemed to have come into force on February 1, 1992.

73. (1) Section 214 of the said Act is repealed and the following substituted therefor:

Payment of tax

214. The tax on goods under this Division shall be paid and collected under the *Customs Act*, and interest and penalties shall be imposed, calculated, paid and collected under that Act, as if the tax were a customs duty levied on the goods under the *Customs Tariff* and, for those purposes, the *Customs Act*, with such modifications as the circumstances require, applies subject to this Division.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

74. (1) All that portion of subsection 215(1) of the said Act preceding paragraph (*b*) thereof is repealed and the following substituted therefor:

Value of goods

215. (1) For the purposes of this Division, the value of goods shall be deemed to be equal to the total of

(*a*) the value of the goods, as it would be determined under the *Customs Act* for the purpose of calculating duties imposed on the goods at a percentage rate, whether the goods are in fact subject to duty, and

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

75. (1) The said Act is further amended by adding thereto, immediately after section 215 thereof, the following section:

Rebate for returned goods

215.1 (1) Where

(*a*) a person paid tax under this Division on goods that were acquired by the person on consignment, approval, sale-or-return basis or other similar terms,

(*b*) the goods are, within sixty days after their release and before they are used or consumed otherwise than on a trial basis, exported by the person for the purpose of returning them to the supplier and are not damaged after their release and before the exportation, and

(*c*) within four years after the tax was paid, the person files with the Minister an application, in prescribed form containing prescribed information, for a rebate of the tax,

the Minister shall, subject to section 263, pay a rebate to the person equal to the amount of the tax paid on the goods.

Idem

(2) Where

(*a*) a person paid an amount as tax under this Division on goods that were imported

(i) for consumption, use or supply otherwise than exclusively in the course of a commercial activity of the person, or

(ii) for consumption, use or supply in the course of a commercial activity of the person and the person was, at the time of the release of the goods, a small supplier who was not registered under Subdivision d of Division V,

(*b*) the Minister has, under any of sections 73, 74 and 76 of the *Customs Act*, granted an abatement or refund of the whole or part of the duties paid on the goods,

(*c*) the person has not been and is not entitled to be compensated under a warranty for loss suffered because of any of the circumstances described in those sections by receiving a supply of replacement parts that are goods included in section 5 of Schedule VII, and (*d*) within four years after the amount was paid as tax under this Division, the person files with the Minister an application, in prescribed form containing prescribed information, for a rebate of the amount,

the Minister shall, subject to section 263, pay a rebate to the person equal to the amount determined by the formula

$$(A \times B) + (A \times B/C \times D)$$

where

A is the rate of tax imposed under subsection 165(1) at the time the amount paid as tax under this Division was paid,

B is the amount of the abatement or refund granted under the *Customs Act*,

C is the amount of the duties that were the subject of the abatement or refund, and

D is the value for duty of the goods under that Act.

Idem

(3) Where

(*a*) a person paid an amount as tax under this Division on goods that were imported

(i) for consumption, use or supply otherwise than exclusively in the course of a commercial activity of the person, or

(ii) for consumption, use or supply in the course of a commercial activity of the person and the person was, at the time of the release of the goods, a small supplier who was not registered under Subdivision d of Division V,

(*b*) if the goods had been subject to duties under the *Customs Act*, the Minister would, because of any of the circumstances described in paragraph 73(*a*) or (*b*) or 74(1)(*a*), (*b*) or (*c*) or subsection 76(1) of that Act, have granted, under section 73, 74 or 76 of that Act, an abatement or refund of the whole or part of the duties paid on the goods, (*c*) the person has not been and is not entitled to be compensated under a warranty for loss suffered because of any of those circumstances by receiving a supply of replacement parts that are goods included in section 5 of Schedule VII, and

(*d*) within four years after the amount was paid as tax under this Division, the person files with the Minister an application, in prescribed form containing prescribed information, for a rebate of the amount,

subject to section 263, sections 73, 74 (except paragraph 74(1)(*d*)) and 76 of that Act apply, with such modifications as the circumstances require, as though the amount paid by the person as tax were duties paid on the goods under that Act.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

76. (1) Section 216 of the said Act is repealed and the following substituted therefor:

Meaning of "determination of the tax status"

216. (1) In this section, "determination of the tax status" of goods means a determination, re-determination or further re-determination that the goods are, or are not, included in Schedule VII.

Application of Customs Act

(2) Subject to subsections (4) to (6), the provisions of the *Customs Act* (other than subsections 67(2) and (3) and sections 68 and 70) and the regulations made under that Act apply, with such modifications as the circumstances require, to the determination of the tax status of goods for the purposes of this Division as if it were the determination, re-determination or further re-determination, as the case requires, of the tariff classification of the goods.

Idem

(3) The *Customs Act* and the regulations made under that Act apply, with such modifications as the circumstances require, to the appraisal, re-appraisal or further re-appraisal of the value of goods for the purposes of this Division as if it were the appraisal, re-appraisal or further re-appraisal, as the case requires, of the value for duty of the goods.

Appeals of determination of tax status

(4) In applying the provisions of the *Customs Act* to a determination of the tax status of goods,

(*a*) the references in paragraphs 64(*d*) and (*e*) and subsection 67(1) of that Act to the "Canadian International Trade Tribunal" shall be read as references to the "Tax Court of Canada"; and

(*b*) the reference in subsection 67(1) of that Act to the "Secretary of the Canadian International Trade Tribunal" shall be read as a reference to the "Registrar of the Tax Court of Canada".

Application of Part IX and Tax Court of Canada Act

(5) The provisions of this Part and of the *Tax Court of Canada Act* that apply to an appeal taken under section 302 apply, with such modification as the circumstances require, to an appeal taken under subsection 67(1) of the *Customs Act* from a decision of the Deputy Minister made under section 63 or 64 of that Act in a determination of the tax status of goods as if the decision of the Deputy Minister were a confirmation of an assessment or a reassessment made by the Minister under subsection 301(3) or (4) as a consequence of a notice of objection filed under subsection 301(1) by the person to whom the Deputy Minister is required to give notice under section 63 or 64 of the *Customs Act*, as the case may be, of the decision.

Rebates

(6) Where

(*a*) because of an appraisal, a re-appraisal or a further re-appraisal of the value of goods or a determination of the tax status of goods, it is determined that the amount that was paid as tax under this Division on the goods exceeds the amount of tax under this Division on the goods that is required to be paid, and

(*b*) if the tax under this Division on the goods were a customs duty on the goods levied under the *Customs Tariff*, a refund of the excess would be given under paragraph 58(2)(*b*), 62(1)(*b*) or 65(1)(*b*) of the *Customs Act*,

a rebate of the excess shall, subject to section 263, be paid to the person who paid the excess and the provisions of the *Customs Act* that relate to the payment of such refunds and interest on such refunds apply, with such modifications as the circumstances require, as if the rebate of the excess tax were a refund of duty.

Application of section 69 of Customs Act

(7) Subject to section 263, section 69 of the *Customs Act* applies, with such modification as the circumstances require, where an appeal in respect of the value of goods or a determination of the tax status of goods is taken for the purpose of determining whether tax under this Division on the goods is payable or the amount of such tax.

(2) Subsection (1) applies to goods that are released (within the meaning assigned by subsection 2(1) of the *Customs Act*) after the day this Act is assented to.

77. (1) The definition "imported taxable supply " in section 217 of the said Act is repealed and the following substituted therefor:

"imported taxable supply"
« fourniture taxable importée »

"imported taxable supply" means

(*a*) a taxable supply of personal property or a service that is made outside Canada to a recipient who is resident in Canada and that can reasonably be regarded as having been received by the recipient for use in Canada otherwise than exclusively in a commercial activity, other than

(i) a zero-rated or prescribed supply,

(ii) a supply in respect of which tax under Division II is payable,

(iii) a supply of goods in respect of which tax under Division III is payable, or

(iv) a supply of goods included in Schedule VII, or

(b) a taxable supply (other than a zero-rated or prescribed supply) of tangible personal property made by a non-resident person who is not registered under Subdivision d of Division V to a recipient who is a registrant where

(i) physical possession of the property is transferred to the recipient in Canada by another registrant who

(A) made a supply in Canada of the property by way of sale, or a supply in Canada of a service of manufacturing or producing the property, to the non-resident person, or

(B) acquired physical possession of the property for the purpose of making a supply of a commercial service in respect of the property to the non-resident person,

(ii) the recipient gives the other registrant a certificate of the recipient described in paragraph 179(2)(*c*), and

(iii) the recipient is not acquiring the property for consumption, use or supply exclusively in the course of commercial activities of the recipient or the property is a passenger vehicle that the recipient is acquiring for use in Canada as capital property in commercial activities of the recipient and that has a capital cost to the recipient exceeding the amount deemed under paragraph 13(7)(*g*) or (*h*) of the *Income Tax Act* to be the capital cost of the vehicle to the recipient for the purposes of section 13 of that Act;

(2) Paragraph (*a*) of the definition "imported taxable supply" in section 217 of the said Act, as enacted by subsection (1), is repealed and the following substituted therefor:

(*a*) a taxable supply (other than a zero-rated or prescribed supply) of a service made outside Canada to a person who is resident in Canada, other than a supply of a service that is

(i) acquired for consumption, use or supply exclusively in the course of commercial activities of the person or activities that are engaged in exclusively outside Canada by the person and that are not part of a business or adventure or concern in the nature of trade engaged in by the person in Canada,

(ii) consumed by an individual exclusively outside Canada (other than a training service the supply of which is made to a person who is not a consumer),

(iii) in respect of real property situated outside Canada,

(iv) a service (other than a custodial or nominee service in respect of securities of the person) in respect of tangible personal property

(A) that is situated outside Canada at the time the service is performed, or

(B) that is exported as soon after the service is performed as is reasonable having regard to the circumstances surrounding the exportation and is not consumed, used or supplied in Canada after the service is performed and before the exportation of the property,

(v) a transportation service, or

(vi) a service rendered in connection with criminal, civil or administrative litigation outside Canada, other than a service rendered before the commencement of such litigation,

(3) The definition "imported taxable supply" in section 217 of the said Act, as enacted by subsection (1) and as amended by subsection (2), is further amended by adding the word "or" at the end of paragraph (*b*) thereof and by adding thereto the following paragraph:

(*c*) a taxable supply (other than a zero-rated or prescribed supply) of intangible personal property made outside Canada to a person who is resident in Canada, other than a supply of property that

(i) is acquired for consumption, use or supply exclusively in the course of commercial activities of the person or activities that are engaged in exclusively outside Canada by the person and that are not part of a business or adventure or concern in the nature of trade engaged in by the person in Canada,

(ii) may not be used in Canada, or

(iii) relates to real property situated outside Canada, to a service to be performed wholly outside Canada or to tangible personal property situated outside Canada;

(4) Subsection (1) shall be deemed to have come into force on December 17, 1990 except that the definition "imported taxable supply" in section 217 of the said Act, as enacted by subsection (1), shall be read

(*a*) without reference to paragraph (*b*) thereof in respect of supplies of property the physical possession of which is transferred to the recipient before March 28, 1991; and

(*b*) without reference to subparagraph (*b*)(ii) thereof in respect of supplies of property the physical possession of which is transferred to the recipient after March 27, 1991 and before the day that is 30 days after ANNOUNCEMENT DATE.

(5) Subsections (2) and (3) apply to supplies all the consideration for which becomes due after ANNOUNCEMENT DATE and no part of the consideration for which is paid before that day without having become due.

78. (1) Paragraph 220(*c*) of the said Act is repealed and the following substituted thereto:

(*c*) the value of the consideration for that supply shall be deemed to be the fair market value of the supply at the time the property is so transferred or the service is so rendered; and

(2) Section 220 of the said Act is amended by striking out the word "and" at the end of paragraph (*b*) thereof, by adding the word "and" at the end of paragraph (*c*) thereof and by adding thereto, immediately after paragraph (*c*) thereof, the following paragraph:

(*d*) the consideration for that supply shall be deemed to have become due and to have been paid, by the permanent establishment (in this paragraph referred to as "the recipient") to which the property was transferred or the service was rendered, to the other permanent establishment at the end of the taxation year of the recipient in which the property was transferred or the service was rendered.

(3) Subsection (1) applies to property transferred and services rendered after September 14, 1992.

(4) Subsection (2) shall be deemed to have come into force on December 17, 1990.

79. (1) Section 221 of the said Act is amended by adding thereto, immediately after subsection (3) thereof, the following subsection:

Export certificate

(3.1) Where a registrant who makes a taxable supply of tangible personal property is provided with a certificate referred to in section 1 of Part V of Schedule VI by the recipient of the supply and, at or before the time that tax in respect of the supply becomes payable, the registrant did not know and could not reasonably be expected to have known that the property would not be exported by the recipient in the circumstances described in that section, the registrant is not required to collect tax in respect of the supply.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

80. (1) The said Act is further amended by adding thereto, immediately after section 221 thereof, the following section:

Meaning of "inventory"

221.1 (1) In this section, "inventory" of a person means tangible personal property of the person acquired in Canada or imported by the person for supply by way of sale in the ordinary course of a business carried on by the person in Canada.

Export certificate

(2) The Minister may, on the application of a person who is registered under Subdivision d of Division V, authorize the person to use, on or after a particular day in a fiscal year of the person and subject to such conditions as the Minister may from time to time specify, a certificate (in this section referred to as an "export certificate") for the purposes of section 1 of Part V of Schedule VI, where it can reasonably be expected that

(*a*) at least 90% of the total of all consideration for supplies to the person of items of inventory acquired in Canada by the person in the twelve month period commencing immediately after the particular day will be attributable to supplies that would be included in that section if it were read without reference to paragraph (*d*) thereof; and

(*b*) the total of all consideration, included in determining the income of a business of the person for the year, for supplies made outside Canada by the person of items of inventory of the person that are not consumed, used, processed, transformed or altered after having been acquired in Canada or imported by the person and before being so supplied by the person will equal or exceed 90% of the total of all consideration, included in determining that income, for supplies made by the person of items of inventory of the person.

Application

(3) An application for authority to use an export certificate shall be made in prescribed form containing prescribed information and be filed with the Minister in prescribed manner.

Notice of authorization

(4) Where the Minister authorizes a registrant to use an export certificate, the Minister shall notify the registrant in writing of the authorization and the effective date thereof.

Revocation

(5) The Minister may revoke, as of a particular day, an authorization granted under subsection (2) to a registrant where

(*a*) the registrant fails to comply with any condition attached thereto or any provision of this Part, or

(*b*) it can reasonably be expected that the requirements of paragraphs (2)(*a*) and (*b*) would not be met if the period referred to therein were the twelve month period commencing on the particular day,

and where the Minister revokes the authorization, the Minister shall notify the registrant in writing of the revocation and the effective date thereof.

Deemed revocation

(6) An authorization granted to a registrant at any time under subsection (2) shall be deemed to have been revoked, effective after the last day of a fiscal year of the registrant ending after that time, where

(*a*) the fraction determined by the formula

$$A/B$$

where

A is the total of all consideration paid or payable by the registrant for items of inventory that were acquired in Canada by the registrant in the year in the course of a business of the registrant and in respect of which the registrant provided to the suppliers thereof an export certificate, and

B is the total of all consideration paid or payable by the registrant for items of inventory acquired in Canada by the registrant in the year in the course of that business, exceeds

(*b*) the fraction determined by the formula

$$C/D$$

where

C is the total of all consideration, included in determining the income from that business for the year, for supplies made outside Canada by the registrant of items of inventory of the registrant that were not consumed, used, processed, transformed or altered after having been acquired in Canada or imported by the registrant and before being so supplied by the registrant, and

D is the total of all consideration, included in determining that income, for supplies made by the registrant of items of inventory of the registrant.

Cessation

(7) An authorization granted to a registrant under subsection (2) ceases to have effect on the earlier of

(*a*) the day on which a revocation of the authorization becomes effective; and

(*b*) the day that is three years after the day on which the authorization, or its renewal, became effective.

Application after revocation

(8) Where an authorization granted to a registrant under subsection (2) is revoked, effective on a particular day, the Minister shall not grant to the registrant another authorization under that subsection that becomes effective before

(*a*) where the authorization was revoked in circumstances described in paragraph (5)(*a*), the day that is two years after the particular day, and

(*b*) in any other case, the first day of the second fiscal year of the registrant commencing after the particular day.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

81. (1) Subsection 222(1) of the said Act is repealed and the following substituted therefor:

Amounts collected held in trust

222. (1) Subject to subsection (1.1), where a person collects an amount as or on account of tax under Division II, the person shall, for all purposes, be deemed to hold the amount in trust for Her Majesty until it is remitted to the Receiver General or withdrawn under subsection (2).

Amounts collected before bankruptcy

(1.1) Subsection (1) does not apply, at or after the time a person becomes a bankrupt (within the meaning of the *Bankruptcy Act*), to any amounts that, before that time, were collected by the person as or on account of tax under Division II.

(2) Subsection 222(3) of the said Act is repealed and the following substituted therefor:

Amounts in trust not part of estate

(3) In the event of any liquidation, assignment, receivership or bankruptcy of or by a person, an amount equal to the amount deemed under subsection (1) to be held in trust for Her Majesty shall, for all purposes, be deemed to be separate from and to form no part of the estate in liquidation, assignment, receivership or bankruptcy, whether or not that amount has in fact been kept separate and apart from the person's own moneys or from the assets of the estate.

(3) Subsections (1) and (2) shall be deemed to have come into force on THE DAY IMMEDIATELY FOLLOWING ANNOUNCEMENT DATE.

82. (1) Subsection 225(5) of the said Act is repealed and the following substituted therefor:

Idem

(5) Where a registrant makes an exempt supply by way of sale of a residential complex, the registrant shall not claim an input tax credit in respect of

(*a*) the last acquisition by the registrant of the complex, or

(*b*) the acquisition or importation by the registrant, after the complex was last acquired by the registrant, of an improvement to the complex,

in a return filed on or after the day the registrant transfers ownership or possession of the complex to the recipient of the supply.

(2) Section 225 of the said Act is further amended by adding thereto the following subsection:

Idem

(6) Where a trustee is appointed under the *Bankruptcy Act* to act in the administration of the estate of a registrant who is a bankrupt,

(*a*) the total of all input tax credits claimed, and all amounts deducted, in a return filed after the appointment for a reporting period of the registrant ending before the appointment shall not exceed the total of

(i) the amount that would be the net tax for the period if no input tax credits were claimed, and no amounts were deducted, in determining the net tax for that period, and

(ii) all amounts required under this Part to be remitted by the registrant in respect of reporting periods ending before that period and all amounts payable under this Part by the registrant as penalty, interest, an instalment of tax or a repayment in respect of those reporting periods, and

(*b*) an input tax credit for a reporting period of the registrant ending before the appointment shall not be claimed in a return for a reporting period of the registrant ending after the appointment,

unless, on or before the day that return is filed, all returns required under this Part to be filed for reporting periods of the registrant ending before the appointment have been filed and all amounts required under this Part to be remitted by the registrant in respect of those reporting periods and all amounts payable under this Part by the registrant as penalty, interest, an instalment of tax or a repayment in respect of those reporting periods have been remitted or paid, as the case may be.

(3) Subsection (1) shall be deemed to have come into force on December 17, 1990.

(4) Subsection (2) applies to returns filed after ANNOUNCEMENT DATE.

83. (1) Section 226 of the said Act is repealed and the following substituted therefor:

Meaning of "returnable container"

226. (1) In this section, "returnable container" means a beverage container (other than a usual container for a beverage the supply of which is included in Part III of Schedule VI) of a class that

(*a*) is ordinarily acquired by consumers;

(*b*) when acquired by consumers, is ordinarily filled and sealed; and

(*c*) is ordinarily supplied by consumers empty for consideration.

Separate supply of beverage and container

(2) For the purposes of this section, where a person supplies a beverage in a returnable container,

(*a*) the provision of the container shall be deemed to be a supply separate from, and not incidental to, the provision of the beverage;

(*b*) section 137 does not apply to deem that container to form part of the beverage; and

(*c*) the consideration for the supply of the container shall be deemed to be equal to that part of the total consideration for the beverage and the container that is reasonably attributable to the container.

Tax collectible on returnable containers

(3) Tax that is collected or becomes collectible by a registrant in respect of a supply of a returnable container shall not be included in determining the net tax of the registrant.

Input tax credit for returnable containers

(4) Tax that is paid or becomes payable by a registrant in respect of a supply of a returnable container shall not be included in determining an input tax credit of the registrant unless the registrant

is acquiring the container for the purpose of making a zero-rated supply of the container or a supply of the container outside Canada.

Application

(5) Subsections (3) and (4) do not apply to a registrant in respect of a supply of a returnable container of a particular class made by or to the registrant where, at the time tax in respect of the supply becomes payable, the usual practice of the registrant is

(*a*) to charge consideration for supplies of filled and sealed containers of that class that exceeds the consideration the registrant pays to registrants for supplies of filled and sealed containers of that class;

(*b*) to charge consideration for supplies of empty containers of that class made to other registrants that exceeds the consideration the registrant pays or would pay to other registrants for supplies of empty containers of that class;

(*c*) to pay consideration for supplies of empty containers of that class received from persons who are not registrants that is less than the total of the consideration that the registrant charges for supplies of empty containers of that class and tax calculated on that consideration;

(*d*) to import filled and sealed containers of that class;

(*e*) to engage other persons to fill and seal containers of that class for the registrant; or

(*f*) to manufacture, produce or fill and seal returnable containers of any class.

Change in practice

(6) Where subsection (3) at any time ceases to apply to a registrant in respect of a returnable container owned by the registrant at that time and the registrant was not entitled, because of subsection (4), to claim an input tax credit in respect of the last acquisition of the container by the registrant, for the purposes of this Part, the registrant shall be deemed to have received at that time a supply of the container and to have paid at that time tax in respect of the supply equal to the tax that was payable in respect of that last acquisition of the container.

Idem

(7) Where subsection (3) at any time begins to apply to a registrant in respect of a returnable container owned by the registrant at that time and the registrant was entitled to claim an input tax credit in respect of the last acquisition of the container by the registrant, for the purposes of this Part, the registrant shall be deemed

(*a*) to have made immediately before that time a supply of the container and to have collected at that time tax in respect of the supply equal to the tax that was payable by the registrant in respect of that last acquisition of the container; and

(*b*) to have received at that time a supply of the container and to have paid at that time tax in respect of the supply equal to the tax referred to in paragraph (*a*).

Supplies under section 156 or 167

(8) For the purposes of this Part, where a supplier at any time makes a supply of a returnable container to a registrant in circumstances in which section 156 or 167 applies and, if those sections had not applied, subsection (3) would not have applied to the supplier in respect of the supply and subsection (4) would have applied to the registrant in respect of the container,

(*a*) the registrant shall be deemed to have made a supply of the container at that time and to have collected at that time tax in respect of the supply calculated on the consideration that the registrant would charge if the registrant made the supply to a person with whom the registrant was dealing at arm's length, and subsection (3) does not apply to the registrant in respect of the supply; and

(*b*) the registrant shall be deemed to have received a supply of the container immediately after that time and to have paid immediately after that time tax in respect of the supply equal to the amount determined under paragraph (*a*).

Idem

(9) For the purposes of this Part, where a supplier at any time makes a supply of a returnable container to a registrant in circumstances in which section 156 or 167 applies and, if those sections had not applied, subsection (3) would have applied to the supplier in respect of the supply and subsection (4) would not have applied to the registrant in respect of the container, the registrant shall be deemed to have paid at that time tax in respect of the supply calculated on the

consideration that the registrant would charge if the registrant made the supply to a person with whom the registrant was dealing at arm's length.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

84. (1) Subparagraph 227(2)(*c*)(ii) of the said Act is repealed and the following substituted therefor:

(ii) in any other case, on or before the day on or before which the return of the registrant is required to be filed under this Division for the first reporting period of the registrant in which the election is in effect or on such later day as the Minister may determine on application of the registrant.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

85. (1) All that portion of subsection 228(4) of the said Act preceding paragraph (*a*) thereof is repealed and the following substituted therefor:

Real property supplied by person not required to collect tax

(4) Where tax under Division II is payable by a person in respect of a supply of real property (other than a supply deemed to have been made) that is made to the person in circumstances in which subsection 221(2) applies, the person shall pay the tax to the Receiver General and file with the Minister in prescribed manner a return in respect of the tax in prescribed form containing prescribed information,

(2) Subsection 228(5) of the said Act is repealed.

(3) Subsections (1) and (2) shall be deemed to have come into force on December 17, 1990.

86. (1) The said Act is further amended by adding thereto, immediately after section 230 thereof, the following section:

Definitions

230.1 (1) In this section,"

certified institution"
« institution agréée »

"certified institution" has the meaning assigned by section 2 of Part XIV of Schedule III;

"specified property"
« biens déterminés »

"specified property" means goods described in section 1 of Part XIV of Schedule III.

Deduction from net tax

(2) Where a registrant is a certified institution in a particular reporting period of the registrant, the registrant may, in determining the net tax for the particular reporting period or for a reporting period that ends within four years after the end of the particular period, deduct

(*a*) the total of all amounts that became collectible, or were collected without having become collectible, by the registrant in the particular period and in 1991 as or on account of tax under Division II in respect of specified property;

(*b*) 75% of the total of all amounts that became collectible, or were collected without having become collectible, by the registrant in the particular period and in 1992 as or on account of tax under Division II in respect of specified property;

(*c*) 50% of the total of all amounts that became collectible, or were collected without having become collectible, by the registrant in the particular period and in 1993 as or on account of tax under Division II in respect of specified property; and

(*d*) 25% of the total of all amounts that became collectible, or were collected without having become collectible, by the registrant in the particular period and in 1994 as or on account of tax under Division II in respect of specified property.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

87. (1) Subsection 232(3) of the said Act is repealed and the following substituted therefor:

Credit or debit notes

(3) Where a particular person adjusts, refunds or credits an amount in favour of, or to, another person in accordance with subsection (1) or (2), the following rules apply:

(*a*) unless the other person issues a debit note, containing prescribed information, for the amount within a reasonable time, the particular person shall issue to the other person a credit note, containing prescribed information, for the amount of the adjustment, refund or credit;

(*b*) the amount may be deducted in determining the net tax of the particular person for the reporting period of the particular person in which the credit note is issued to the other person or the debit note is received by the particular person, to the extent that the amount has been included in determining the net tax for the reporting period or a preceding reporting period of the particular person; and

(*c*) the amount shall be added in determining the net tax of the other person for the reporting period of the other person in which the debit note is issued to the particular person or the credit note is received by the other person, to the extent that the amount has been included in determining an input tax credit claimed by the other person in a return filed for the reporting period or a preceding reporting period of the other person.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

88. (1) Subsection 233(1) of the said Act is repealed and the following substituted therefor:

Meaning of "specified amount"

233. (1) In this section, "specified amount", in respect of a patronage dividend paid by a person in a fiscal year of the person, means the amount determined by the formula

$$A \times (B + D)/(C + D)$$

where

A is the amount of the patronage dividend;

B is the total value of all consideration that became due, or was paid without having become due, in the immediately preceding fiscal year of the person while the person was a registrant for taxable supplies (other than supplies by way of sale of capital property of the person and zero-rated supplies) made in Canada by the person;

C is the total value of all consideration that became due, or was paid without having become due, in the immediately preceding fiscal year of the person for taxable supplies (other than supplies by way of sale of capital property of the person) made in Canada by the person; and

D is the total of all tax that became payable, or was paid without having become payable, in the immediately preceding fiscal year of the person in respect of taxable supplies (other than supplies by way of sale of capital property of the person) made by the person.

(2) Subparagraph 233(2)(*a*)(ii) of the said Act is repealed and the following substituted therefor:

(ii) where the particular person has made an election under this subparagraph that is in effect for that fiscal year, the part of the dividend that is in respect of taxable supplies (other than zero-rated supplies) made to the other person; and

(3) Subsection 233(3) of the said Act is repealed and the following substituted therefor:

Exception

(3) Subsection (2) does not apply to a patronage dividend paid by a person in a fiscal year of the person for which an election made by the person under this subsection is in effect, in which event the

dividend shall be deemed not to be a reduction of the consideration for any supplies.

(4) Section 233 of the said Act is further amended by adding thereto the following subsections:

Time for election

(4) An election made under subparagraph (2)(*a*)(ii) or subsection (3) by a person shall be made before any patronage dividend is paid by the person in the fiscal year of the person in which the election is to take effect.

Revocation of election

(5) An election made under subparagraph (2)(*a*)(ii) or subsection (3) by a person may be revoked by the person before any dividend is paid by the person in the fiscal year of the person in which the revocation is to take effect.

Date of payment of dividend

(6) For the purposes of this section, a dividend shall be deemed to be paid on the day that it is declared.

(5) Subsection (1) applies to patronage dividends paid after March 1991.

(6) Subsections (2) and (3) shall be deemed to have come into force on December 17, 1990 except that an election under subparagraph 233(2)(*a*)(ii) of the said Act, as enacted by subsection (2), or under subsection 233(3) of the said Act, as enacted by subsection (3), that is made by a person before April 27, 1992 is not valid unless, before any patronage dividend is paid by the person in the fiscal year of the person in which the election is to take effect, the election is filed with the Minister of National Revenue in a form and manner prescribed by the Minister.

(7) Subsection (4) shall be deemed to have come into force on November 6, 1991 except that a revocation under subsection 233(5) of the said Act, as enacted by subsection (4), that is made by a person before April 27, 1992 is not valid unless, before any patronage dividend is paid by the person in the fiscal year of the person in which the revocation is to take effect, the revocation is filed with the Minister of National Revenue in a manner prescribed by the Minister.

(8) Notwithstanding subsection (6), where, before November 6, 1991, a person filed with the Minister of National Revenue an election under subparagraph 233(2)(*a*)(ii) or subsection 233(3) of the said Act, as they read before this Act was assented to, the election is effective and valid in respect of dividends paid or declared by the person during a period commencing on or after the day the election was filed with the Minister and ending on the first day of the fiscal year of the person in which a revocation of the election made under subsection 233(5) of the said Act, as enacted by subsection (4), takes effect.

89. (1) Section 234 of the said Act is repealed and the following substituted therefor:

Deduction for housing rebate

234. (1) Where, in the circumstances described in subsection 254(4) or 254.1(4), a builder pays to, or credits in favour of, an individual an amount on account of a rebate referred to therein and transmits the application of the individual for the rebate to the Minister in accordance with subsection 254(5) or 254.1(5), the builder may deduct the amount in determining the net tax of the builder for the reporting period of the builder in which the amount was paid or credited.

Deduction for rebate in respect of supplies to non-residents

(2) Where, in the circumstances described in subsection 252(3), 252.1(8) or 252.4(2) or (4), a registrant pays to, or credits in favour of, a person an amount on account of a rebate referred to therein, the registrant may deduct the amount in determining the net tax of the registrant for

(*a*) the reporting period of the registrant that includes the particular day that is the later of the last day on which any tax to which the rebate relates became payable and the day on which the amount is paid or credited, or

(*b*) any subsequent reporting period of the registrant for which a return is filed within one year after the particular day.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990 except that in applying subsection 234(2) of the said Act, as enacted by subsection (1), on or before ANNOUNCEMENT DATE, the reference therein to subsection 252(3) shall be read as a reference to subsection 252(6).

90. (1) Subsection 235(1) of the said Act is repealed and the following substituted therefor:

Net tax where passenger vehicle leased

235. (1) Where, in a taxation year of a registrant, tax becomes payable, or is paid without having become payable, by the registrant in respect of a supply by way of lease of a passenger vehicle and

(*a*) the total of the consideration for the supply that would be deductible in computing the registrant's income for the year for the purposes of the *Income Tax Act*, if the registrant were a taxpayer under that Act and that Act were read without reference to section 67.3 thereof,

exceeds

(*b*) the amount in respect of that consideration that is, or would be if the registrant were a taxpayer under the *Income Tax Act*, deductible in computing the registrant's income for the year for the purposes of that Act,

there shall be added in determining the net tax for the appropriate reporting period of the registrant an amount determined by the formula

$$A \times B \times C$$

where

A is the ratio obtained by dividing that excess by that consideration,

B is the tax paid or payable in respect of that consideration (other than tax that, by reason of section 170, may not be included in determining an input tax credit of the registrant), and

C is the proportion of the total use of the vehicle that is use in commercial activities of the registrant.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

91. (1) All that portion of section 236 of the said Act preceding paragraph (*a*) thereof is repealed and the following substituted therefor:

Food, beverages and entertainment

236. Where a registrant is the recipient of, or pays an allowance in respect of, a supply of food, beverages or entertainment and subsection 67.1(1) of the *Income Tax Act* applies, or would apply if the registrant were a taxpayer under that Act, in respect of the supply or allowance, 20% of the total of all amounts, each of which is an input tax credit claimed in a return for a reporting period in a fiscal year of the registrant in respect of the supply or allowance, shall be added in determining the net tax

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

92. (1) Subsections 237(1) to (4) of the said Act are repealed and the following substituted therefor:

Instalments

237. (1) Where the reporting period of a registrant is a fiscal year or a period determined under subsection 248(3), the registrant shall, within one month after the end of each fiscal quarter of the registrant ending in the reporting period, pay to the Receiver General an instalment equal to 1/4 of the registrant's instalment base for that reporting period.

Instalment base

(2) A registrant's instalment base for a particular reporting period of the registrant is the lesser of

(*a*) an amount equal to

(i) in the case of a reporting period determined under subsection 248(3), the amount determined by the formula

$$A \times 365/B$$

where

A is the net tax for the particular reporting period, and

B is the number of days in the particular reporting period, and

(ii) in any other case, the net tax for the particular reporting period, and

(*b*) the amount determined by the formula

$$C \times 365/D$$

where

C is the total of all amounts each of which is the net tax for a reporting period of the registrant ending in the twelve month period immediately preceding the particular reporting period, and

D is the number of days in the period commencing on the first day of the first of those preceding reporting periods and ending on the last day of the last of those preceding reporting periods.

Minimum instalment base

(3) For the purposes of subsection (1), where a registrant's instalment base for a reporting period is less than $1500, it shall be deemed to be nil.

(3) Subsection (1) applies to reporting periods beginning after April 26, 1992.

93. (1) Subsection 238(2) of the said Act is repealed and the following substituted therefor:

Idem

(2) Every person who is not a registrant shall file a return with the Minister for each reporting period of the person for which net tax is remittable by the person within one month after the end of the reporting period.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

94. (1) Subsections 240(1) to (3) of the said Act are repealed and the following substituted therefor:

Registration required

240. (1) Every person who makes a taxable supply in Canada in the course of a commercial activity engaged in by the person in Canada is required to be registered for the purposes of this Part except where (*a*) the person is a small supplier;

(*b*) the only commercial activity of the person is the making of supplies of real property by way of sale otherwise than in the course of a business; or

(*c*) the person is a non-resident person who does not carry on any business in Canada.

Taxi business

(1.1) Notwithstanding subsection (1), every small supplier who carries on a taxi business is required to be registered for the purposes of this Part in respect of that business.

Non-resident performers, etc.

(2) Every person who enters Canada for the purpose of making taxable supplies of admissions in respect of a place of amusement, a seminar, an activity or an event is required to be registered for the purposes of this Part and shall, before making any such supply, apply to the Minister for registration.

Application

(2.1) A person required to be registered under subsection (1) or (1.1) shall apply to the Minister for registration before the day that is thirty days after

(*a*) in the case of a person required to be registered under subsection (1.1) in respect of a taxi business, the day the person first makes a taxable supply in Canada in the course of that business; and

(*b*) in any other case, the day the person first makes a taxable supply in Canada, otherwise than as a small supplier, in the course of a commercial activity engaged in by the person in Canada.

Registration permitted

(3) An application for registration for the purposes of this Part may be made to the Minister by any person who is not required under subsection (1), (1.1) or (2) to be registered and who

(*a*) is engaged in a commercial activity in Canada;

(*b*) is a non-resident person who in the ordinary course of carrying on business outside Canada regularly solicits orders for the supply of tangible personal property for delivery in Canada; or

(*c*) is a listed financial institution resident in Canada.

Extended registration permitted for taxi business

(3.1) Where a person who is a small supplier carrying on a taxi business files with the Minister in prescribed manner a request, in prescribed form containing prescribed information, to have the registration of the person apply in respect of all commercial activities engaged in by the person in Canada, the Minister may approve the request and shall thereupon notify the person in writing of the date from which the registration so applies.

(2) Subsection 240(3) of the said Act, as enacted by subsection (1), is amended by striking out the word "or" at the end of paragraph (*b*) thereof, by adding the word "or" at the end of paragraph (*c*) thereof and by adding thereto the following paragraph:

(*d*) is a particular corporation resident in Canada

(i) that owns shares of the capital stock of, or holds indebtedness of, any other corporation that is related to the particular corporation, or

(ii) that is acquiring, or proposes to acquire, all or substantially all of the issued and outstanding shares of the capital stock of another corporation, having full voting right under all circumstances,

where all or substantially all of the property of the other corporation is, for the purposes of section 186, property that was acquired or imported by the other corporation for consumption, use or supply exclusively in the course of its commercial activities.

(3) Subsection 240(4) of the said Act is repealed and the following substituted therefor:

Suppliers of prescribed property

(4) For the purposes of subsection (1), every person, whether or not resident in Canada, who, in Canada, whether through an employee or

agent or by means of ~~advertis~~ing directed at the Canadian market, solicits orders for the supply by the person of, or offers to supply, property that is prescribed property for the purposes of section 143.1 and that is to be sent by mail or courier to the recipient at an address in Canada shall be deemed to carry on business in Canada.

(4) Subsection (1) shall be deemed to have come into force on December 17, 1990.

(5) Subsection (3) comes into force or shall be deemed to have come into force on January 1, 1993.

95. (1) Section 241 of the said Act is renumbered as subsection 241(1) and is further amended by adding thereto the following subsection:

Taxi business

(2) Where, on the day on which the registration under subsection (1) of a person becomes effective or is varied under subsection 242(2.1), the person is a small supplier carrying on a taxi business and an approval under subsection 240(3.1) in respect of the registration does not become effective on that day, the registration does not apply to any other commercial activity engaged in by the person in Canada throughout the period commencing on that day and ending on the earlier of the first day thereafter that the person ceases to be a small supplier and the day, specified in a notice issued under subsection 240(3.1) in respect of that registration or varied registration, as the case may be, from which the registration is to apply to all commercial activities engaged in by the person in Canada.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

96. (1) All that portion of subsection 242(2) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Request for cancellation

(2) The Minister shall cancel the registration of a person who is not carrying on a taxi business, effective after the last day of a fiscal year of the person, where

(2) Subsection 242(3) of the said Act is repealed and the following substituted therefor:

Request for variation

(2.1) Where a small supplier carrying on a taxi business files with the Minister in prescribed manner a request, in prescribed form containing prescribed information, to have the registration of the person varied to apply only to that business, the Minister shall so vary the registration, effective on a day that is the first day of a fiscal year of the person and that is at least one year after the registration of the person last became applicable to all commercial activities engaged in by the person in Canada.

Notice of cancellation or variation

(3) Where the Minister cancels or varies the registration of a person, the Minister shall notify the person in writing of the cancellation or variation and the effective date thereof.

(3) Subsections (1) and (2) shall be deemed to have come into force on December 17, 1990.

97. (1) Section 243 of the said Act is repealed and the following substituted therefor:

Determination of fiscal quarters

243. (1) For the purposes of this Part, the fiscal quarters in a fiscal year of a person shall be determined in accordance with the following rules:

(*a*) there shall not be more than four fiscal quarters in the year;

(*b*) the first fiscal quarter in the year shall begin on the first day of that year, and the last fiscal quarter in the year shall end on the last day of that year;

(*c*) each fiscal quarter shall be shorter than one hundred and twenty days; and

(*d*) except for the first and last fiscal quarters in the year, each fiscal quarter shall be longer than eighty-three days.

Determination of fiscal months

(2) For the purposes of this Part, the fiscal months in a fiscal year of a person shall be determined in accordance with the following rules:

(*a*) the first fiscal month in each fiscal quarter in the year shall begin on the first day of that fiscal quarter, and the last fiscal month in each fiscal quarter shall end on the last day of that fiscal quarter;

(*b*) each fiscal month shall be shorter than thirty-six days except that the Minister may, on request in writing made in prescribed form containing prescribed information and filed with the Minister in prescribed manner, allow the person to have one fiscal month that is longer than thirty-five days in a fiscal quarter; and

(*c*) each fiscal month shall be longer than twenty-seven days unless

(i) that fiscal month is the first or last fiscal month in a fiscal quarter, or

(ii) the Minister, upon request in writing made in prescribed form containing prescribed information and filed with the Minister in prescribed manner, allows the person to have that fiscal month shorter than twenty-eight days.

Notice by registrant

(3) Where a person is a registrant at any time in a fiscal year of the person, the person shall specify the first and last day of each of the fiscal quarters and fiscal months in the year in prescribed form containing prescribed information and filed with the Minister in prescribed manner on or before the day that is

(*a*) where the person becomes a registrant in that fiscal year, the later of

(i) the day the person files an application for registration under section 240 or, where the person was required under subsection 240(2.1) to file that application on or before an earlier day, that earlier day, and

(ii) the effective date of the registration; and (*b*) in any other case, the first day of that fiscal year.

Determination by Minister

(4) Where a person fails to determine the fiscal quarters or fiscal months in a fiscal year of the person in accordance with subsection (1) or (2), or fails to satisfy the requirements under subsection (3), for the purposes of this Part, the Minister may determine those fiscal quarters or fiscal months and shall notify the person in writing of the determination.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990 except that with respect to any fiscal year of a registrant beginning before December 1991, the registrant shall be deemed to have complied with section 243 of the said Act, as enacted by subsection (1), where

(*a*) the fiscal quarters and fiscal months of the registrant in the fiscal year were determined pursuant to section 243 of the said Act as it would read were it not for the enactment of subsection (1) and either

(i) the fiscal year was a calendar year, or

(ii) the registrant notified the Minister of National Revenue in writing, before December 1991, of the first and last day of each of the fiscal months and fiscal quarters in the fiscal year of the registrant; or

(*b*) the fiscal quarters and fiscal months of the registrant in the fiscal year were determined pursuant to section 243 of the said Act, as enacted by subsection (1), and the registrant notified the Minister in writing, before December 1991, of the first and last day of each of the fiscal months and fiscal quarters in the fiscal year.

98. (1) Subsection 244(2) of the said Act is repealed and the following substituted therefor:

Idem

(2) Where the taxation year of an individual or trust is not a period that is, for the purposes of the *Income Tax Act*, the fiscal period of a business carried on by the individual or trust, or by a partnership of which the individual or trust is a member, the individual or trust may elect to have the fiscal year of the individual or trust be that fiscal period, effective on the first day of one of those fiscal periods.

(2) Paragraph 244(4)(*c*) of the said Act is repealed and the following substituted therefor:

(*c*) be filed with the Minister not later than the day the election or revocation is to become effective.

(3) Subsection (1) shall be deemed to have come into force on December 17, 1990.

(4) Subsection (2) shall be deemed to have come into force on January 1, 1992.

99. (1) Subparagraph 245(2)(*b*)(i) of the said Act is repealed and the following substituted therefor:

(i) the threshold amount of the registrant for the fiscal year or fiscal quarter of the registrant that includes that time exceeds $6,000,000 and the registrant is not a listed financial institution described in any of subparagraphs 149(1)(*a*)(i) to (x),

(2) Paragraph 245(2)(*c*) of the said Act is repealed and the following substituted therefor:

(*c*) where the registrant is a listed financial institution described in any of subparagraphs 149(1)(*a*)(i) to (x) and has not made an election under section 246 or 247, the fiscal year of the registrant that includes that time; and

(3) Subsections (1) and (2) shall be deemed to have come into force on THE DAY IMMEDIATELY FOLLOWING ANNOUNCEMENT DATE.

100. (1) Section 249 of the said Act is repealed and the following substituted therefor:

Threshold amount for fiscal year

249. (1) For the purposes of sections 245, 247 and 248, the threshold amount of a particular person for a fiscal year of the person is an amount equal to the total of

(*a*) the amount determined by the formula

$$A \times 365/B$$

where

A is the total of all consideration for taxable supplies (other than supplies of financial services, supplies by way of sale of real property that is capital property of the person and supplies included in Part V of Schedule VI) made in Canada by the person that became due to the person in the immediately preceding fiscal year (in this subsection referred to as the "base year") of the person or was paid to the person in the base year without having become due, and

B is the number of days in the base year, and

(*b*) the total of all amounts each of which is an amount in respect of a person (in this paragraph referred to as the "associate") who was associated with the particular person at the end of the particular fiscal year of the associate that is the last such year ending at the same time as, or at any time in, the base year, determined by the formula

$$C \times 365/D$$

where

C is the total of all consideration for taxable supplies (other than supplies of financial services, supplies by way of sale of real property that is capital property of the associate and supplies included in Part V of Schedule VI) made in Canada by the associate that became due to the associate in the particular fiscal year of the associate or was paid to the associate in that year without having become due, and

D is the number of days in the particular fiscal year of the associate.

Threshold amount for fiscal quarter

(2) For the purposes of sections 245, 247 and 248, the threshold amount of a particular person for a particular fiscal quarter of the person at any time in a fiscal year of the person is an amount equal to the total of

(*a*) the total of all consideration for taxable supplies (other than supplies of financial services, supplies by way of sale of real property that is capital property of the person and supplies included in Part V of Schedule VI) made in Canada by the person that became due to the person in the preceding fiscal quarters of the person ending in that year or was paid to the person in those preceding fiscal quarters without having become due, and

(*b*) the total of all amounts each of which is an amount in respect of a person (in this paragraph referred to as the "associate") who was associated with the particular person at the beginning of the particular fiscal quarter equal to the total of all consideration for taxable supplies (other than supplies of financial services, supplies by way of sale of real property that is capital property of the associate and supplies included in Part V of Schedule VI), made in Canada by the associate that became due to the associate in the fiscal quarters of the associate that end in the fiscal year of the particular person before the beginning of the particular fiscal quarter or was paid to the associate in those fiscal quarter of the associate without having become due.

(2) Subsection (1) applies in determining the threshold amount for any fiscal year, or for any fiscal quarter, commencing after ANNOUNCEMENT DATE.

101. (1) Section 252 of the said Act is repealed and the following substituted therefor:

Non-resident rebate in respect of exported goods

252. (1) Where a non-resident person is the recipient of a supply of tangible personal property acquired by the person for use primarily outside Canada, other than

(*a*) used specified tangible personal property acquired by the person by way of purchase for consideration that exceeds the prescribed amount in respect of the property,

(*b*) excisable goods,

(*c*) wine, and

(*d*) gasoline, diesel fuel or other motive fuel other than such fuel that

(i) is being transported in a vehicle designed for transporting gasoline, diesel fuel or other motive fuel in bulk, and

(ii) is for use otherwise than in the vehicle in which or with which it is being transported,

and the person exports the property within sixty days after it is delivered to the person, the Minister shall, subject to section 252.2, pay a rebate to the person equal to the tax paid by the person in respect of the supply.

Rebate for artistic works produced for export

(2) Where a non-resident person who is not a registrant

(*a*) acquires particular property or a particular service (other than a service of storing or shipping property) for consumption or use exclusively in the manufacture or production of an original literary, musical, artistic, motion picture or other work in which copyright protection subsists and copies, if any, of that work,

(*b*) is not a consumer of the particular property or service, and

(*c*) is manufacturing or producing the work and all copies thereof for export by the non-resident person,

the Minister shall, subject to subsection (3) and section 252.2, pay a rebate to the non-resident person equal to the tax paid by the non-resident person in respect of the acquisition of the particular property or service.

Rebate for goods produced for export

(3) Where a non-resident person who is not a registrant

(*a*) acquires a particular processing service in respect of tangible personal property or acquires particular property or a particular service (other than a service of storing or shipping property) for consumption or use exclusively in the manufacture or production of tangible personal property,

(*b*) is not a consumer of the particular property or service,

(*c*) is manufacturing or producing the tangible personal property exclusively for export by the non-resident person or for supply to another person who is not a registrant and is acquiring the tangible personal property for export, and (*d*) whether or not tax was payable by the non-resident person in respect of the acquisition of the particular property or service, paid an amount as or on account of tax in respect of the acquisition,

the Minister shall, subject to subsection (6) and section 252.2, pay a rebate to the non-resident person equal to that amount.

Rebate for goods sold to registrant

(4) Where

(*a*) a non-resident person who is not a registrant

(i) acquires tangible personal property or a processing service in respect of tangible personal property,

(ii) makes a supply of the tangible personal property to a registrant who is not deemed under section 180 to have paid tax in respect of a supply of the tangible personal property, and

(iii) whether or not tax was payable by the non-resident person in respect of the acquisition of the property or service, paid an amount as or on account of tax in respect of the acquisition, and

(*b*) section 179 applies to the supply of the property or service made to the non-resident person,

the Minister shall, subject to subsection (6) and section 252.2, pay a rebate to the non-resident person equal to that amount.

Meaning of "processing service"

(5) For the purposes of subsections (3) and (4), "processing service" in respect of tangible personal property means

(*a*) performing a manufacturing, production or processing operation on the property,

(*b*) assembling, blending, mixing, cutting to size, diluting, bottling, packaging or repackaging the property or applying coatings or finishes to the property,

(*c*) inspecting, testing, evaluating, repairing or maintaining the property, or (*d*) recording or storing instructions or data on the property in such manner and form that the instructions or data can be read or processed by data processing equipment.

Assignment of rebate

(6) Where the recipient of a supply assigns, in prescribed form containing prescribed information, to the supplier the right to a rebate under any of subsections (2) to (4) to which the recipient would be entitled in respect of the supply if the recipient paid the tax in respect thereof and satisfied the conditions under section 252.2 and the supplier pays to, or credits in favour of, the recipient the amount of that tax,

(*a*) the supplier may claim a deduction under subsection 234(2) in respect of the supply equal to that amount, and

(*b*) the recipient is not entitled to any rebate, refund or remission of tax in respect of the supply.

Definitions

252.1 (1) In this section and section 252.2,

"tour package"
« voyage organisé »

"tour package" has the meaning assigned by subsection 163(3) but does not include a tour package that includes a convention facility or related convention supplies;

"short-term accommodation"
« logement provisoire »

"short-term accommodation" includes any type of overnight shelter (other than shelter on a train, trailer, boat or structure that has means of, or is capable of being readily adapted for, self-propulsion) when supplied as part of a tour package that also includes meals, or food therefor, and the services of a guide, but does not include short-term accommodation that is included in that part of a tour package that is not the taxable portion of the tour package within the meaning of subsection 163(3).

Accommodation rebate to non-resident consumers

(2) Where

(*a*) a non-resident person is the recipient of a supply made by a registrant of short-term accommodation or a tour package that includes short-term accommodation,

(*b*) the accommodation or tour package is acquired by the person otherwise than for use in the course of a business of the person and otherwise than for supply in the ordinary course of a business of the person of making such supplies, and

(*c*) the accommodation is made available to a non-resident consumer thereof,

the Minister shall, subject to subsection (8) and section 252.2, pay a rebate to the person equal to the tax paid by the person in respect of the accommodation.

Accommodation rebate to non-resident suppliers

(3) Where

(*a*) a particular non-resident person who is not registered under Subdivision d of Division V is the recipient of a supply of short-term accommodation or a tour package that includes short-term accommodation,

(*b*) the accommodation or tour package is acquired by the person for supply in the ordinary course of a business of the person of making such supplies,

(*c*) a supply of the accommodation or tour package is made to another non-resident person and payment of the consideration for that supply is made at a place outside Canada at which the supplier, or an agent thereof, is conducting business, and

(*d*) the accommodation is made available to a non-resident consumer thereof,

the Minister shall, subject to subsection (8) and section 252.2, pay a rebate to the particular person equal to the tax paid by the particular person in respect of the accommodation.

Tax paid in respect of accommodation

(4) For the purposes of subsection (2), where in an application filed by a person for rebates under that subsection in respect of one or more supplies of short-term accommodation that is not included in a tour package and in respect of which tax was paid by the person, the person elects to have any of those rebates determined in accordance with the formula set out in this subsection, the amount of tax paid in respect of each of those supplies of short-term accommodation shall be deemed to be equal to the amount determined by the formula

$$A \times \$5$$

where

A is the total number of nights for which that short-term accommodation is made available under the agreement for the supply.

Tax paid in respect of tour package

(5) Where a person files an application in which rebates under subsection (2) or (3) are claimed in respect of one or more supplies of tour packages that include short-term accommodation and in respect of which tax was paid by the person, for the purposes of that subsection, the amount of tax paid in respect of the accommodation shall, for each of those tour packages, be deemed to be equal to

(*a*) where subsection (2) applies and the person elects in that application to have any of those rebates determined in accordance with the formula set out in this paragraph, the amount determined by the formula

$$A \times \$5$$

where

A is the total number of nights for which short-term accommodation included in that tour package is made available under the agreement for the supply, and

(*b*) in any other case, the amount determined by the formula

$$B/C \times D/2$$

where

B is the total number of nights for which short-term accommodation included in that tour package is made available under the agreement for the supply of that tour package,

C is the number of nights that are spent in Canada by the consumer of that tour package during the period commencing on the earlier of the first day on which overnight lodging included in the tour package is made available to the consumer and the first day any overnight transportation service included in the tour package is rendered to the consumer and ending on the later of the last day such lodging is made available to the consumer and the last day any such transportation service is rendered to the consumer, and

D is the tax paid by the person in respect of the supply of that tour package.

Multiple supplies of accommodation for the same night

(6) For the purposes of determining a rebate under subsection (2) to a person in accordance with the formula set out in subsection (4), where a registrant makes a particular supply to the person of short-term accommodation that is made available to the person for any night, any other supply by the registrant to the person of short-term accommodation that is made available to the person for the same night shall be deemed not to be a supply separate from the particular supply.

Idem

(7) For the purposes of determining a rebate under subsection (2) to a person in accordance with the formula set out in paragraph (5)(*a*), where a registrant makes a supply to the person of a particular tour package that includes short-term accommodation that is made available to the person for the same night as that for which short-term accommodation included in another tour package supplied by the registrant to the person is made available, all the accommodation made available to the person for that night shall be deemed to be included in the particular tour package and not in any other tour package.

Rebate paid by registrant

(8) Where

(*a*) a registrant makes a supply of short-term accommodation or a tour package that includes short-term accommodation to a non-resident recipient who is the consumer of the accommodation or who is acquiring the accommodation or tour package for supply in the ordinary course of a business of the recipient of making such supplies,

(*b*) the registrant pays to, or credits in favour of, the recipient an amount on account of a rebate under subsection (2) or (3) to which the recipient would be entitled in respect of the accommodation if the recipient had paid the tax in respect thereof and had satisfied the conditions under section 252.2,

(*c*) the amount paid or credited is equal to

(i) in the case of a supply of a tour package, the amount that would be determined in respect thereof under paragraph (5)(*b*), and

(ii) in the case of a supply of short-term accommodation that is not part of a tour package, the tax paid by the recipient in respect of the supply, and

(*d*) in the case of a rebate under subsection (2),

(i) payment of the consideration for the supply is made at a place outside Canada at which the registrant, or an agent thereof, is conducting business, or

(ii) where the accommodation is supplied as part of a tour package that includes other property or services (other than meals or property or services that are provided or rendered by the person who provides the accommodation and in connection therewith), a deposit of at least 20% of the total consideration for the tour package is paid

(A) by the recipient to the registrant at least 14 days before the first day on which any short-term accommodation included in the tour package is made available under the agreement for the supply of the tour package, and

(B) by means of a credit card or charge card issued by, or a cheque, draft or other bill of exchange drawn on an account outside Canada with, a non-resident institution that is a bank, cooperative credit society, trust company or similar institution,

the registrant may claim a deduction under subsection 234(2) in respect of the amount paid or credited and the recipient is not entitled to any rebate or to any refund or remission of tax in respect of the accommodation.

Deposit paid by credit card

(9) For the purposes of subsection (8), where the payment of a deposit in respect of a supply is effected by the crediting of an account of the supplier by the issuer of a credit card or charge card of the recipient, the deposit shall be deemed not to have been paid before the account is so credited.

Restriction

252.2 A rebate shall not be paid under section 252 or subsection 252.1(2) or (3) to a person unless

(*a*) the person files an application for the rebate within one year after

(i) in the case of a rebate under subsection 252(1), the day the person exports the property to which the rebate relates,

(ii) in the case of a rebate under subsection 252(2), the day the tax to which the rebate relates became payable, and

(iii) in any other case, the last day any tax to which the rebate relates became payable;

(*b*) except where the application is a prescribed application, where the person is an individual, the individual has not made another application under this section in the calendar quarter in which the application is made;

(*c*) where the person is not an individual, the person has not made another application under this section in the calendar month in which the application is made;

(*d*) at the time the application is made, the person is non-resident;

(*e*) the total of all rebates for which the application is made is at least $7;

(*f*) the total of all rebates for which the application is made that are in respect of short-term accommodation not included in a tour package and are determined in accordance with the formula set out in subsection 252.1(4) does not exceed $75; and

(*g*) the total of all rebates for which the application is made that are in respect of tour packages and are determined in accordance with the formula set out in paragraph 252.1(5)(*a*) does not exceed $75.

Rebate for non-resident exhibitors

252.3 Where a non-resident person who is not registered under Subdivision d of Division V is the recipient of a supply by way of lease, licence or similar arrangement of real property that is acquired by the person exclusively for use as a site for the promotion, at a convention, of property or services supplied by, or a business of, the person, the Minister shall, on the application of the person filed within one year after the convention is held, pay to the person

(*a*) a rebate equal to the tax paid by the person in respect of that supply, and

(*b*) a rebate equal to the tax paid by the person in respect of a supply to the person of related convention supplies in respect of the convention.

Rebate in respect of foreign convention

252.4 (1) Where a sponsor of a foreign convention pays tax in respect of

(*a*) a supply of property or services relating to the convention made by a registrant who is the organizer of the convention,

(*b*) a supply of the convention facility, or related convention supplies, made by a registrant who is not the organizer of the convention, or

(*c*) related convention supplies that are imported by the sponsor, the Minister shall, subject to subsection (2) and on the application of the sponsor filed within one year after the convention is held, pay a rebate to the sponsor equal to

(*d*) in the case of a supply made by the organizer, the tax paid by the sponsor that is calculated on that part of the consideration for the supply that is reasonably attributable to the convention facility or related convention supplies, and

(*e*) in any other case, the tax paid by the sponsor in respect of the supply or importation.

Rebate paid by organizer

(2) Where a registrant who is the organizer of a foreign convention pays to, or credits in favour of, the sponsor of the convention an amount on account of a rebate under subsection (1) to which the sponsor would be entitled in respect of a supply made by the registrant to the sponsor if the sponsor had paid the tax in respect thereof and had applied for the rebate in accordance with that subsection, the registrant may claim a deduction under subsection 234(2) in respect of the amount paid or credited and the sponsor is not entitled to any rebate, refund or remission in respect of the tax to which the amount relates.

Rebate to organizer

(3) Where an organizer of a foreign convention who is not registered under Subdivision d of Division V pays tax in respect of a supply or importation of the convention facility or related convention supplies, the Minister shall, on the application of the organizer filed within one year after the convention is held, pay a rebate to the organizer equal to the tax paid by the organizer in respect of the supply or importation.

Rebate paid by supplier

(4) Where

(*a*) a person who is

(i) the organizer of a foreign convention and is not registered under Subdivision d of Division V, or

(ii) the sponsor of a foreign convention,

is the recipient of

(iii) a taxable supply of the convention facility, or related convention supplies, made by the operator of the facility who is not the organizer of the convention, or

(iv) a taxable supply, made by a registrant other than the organizer of the convention, of short-term accommodation that is acquired by the person exclusively for supply in connection with the convention, and

(*b*) the operator of the facility or supplier of accommodation pays to, or credits in favour of, the person an amount on account of a rebate to which the person would be entitled under subsection (1) or (3) in respect of the supply of the facility or accommodation, as the case may be, if the person had paid the tax in respect thereof and had applied for the rebate in accordance with that subsection,

the operator or supplier of accommodation, as the case may be, may claim a deduction under subsection 234(2) in respect of the amount paid or credited and the person is not entitled to any rebate, refund or remission in respect of the tax to which the amount relates.

Liability for amount paid or credited

252.5 Where, under section 252, 252.1 or 252.4, a registrant at a particular time pays to, or credits in favour of, a person an amount on account of a rebate and

(*a*) the person does not satisfy the condition (in this section referred to as the "eligibility condition") that the person would have been entitled to the rebate if the person had paid the tax to which the amount relates and had satisfied the conditions of section 252.2 or, in the case of a rebate under subsection 252.4(1), had applied for the rebate within the time limited by that subsection for filing an application for the rebate, or

(*b*) the amount paid or credited exceeds the rebate to which the person would have been so entitled, which excess is referred to in this section as the "excess amount",

the following rules apply:

(*c*) where, at the particular time, the registrant knows or ought to know that the person does not satisfy the eligibility condition or that the amount paid or credited exceeds the rebate to which the person is entitled, the registrant and the person are jointly and severally liable to pay to the Receiver General under section 264 the amount or excess amount, as the case may be, as if it had been paid at the particular time as a rebate under this Division to the registrant and the person, and

(*d*) in any other case, the person is liable to pay to the Receiver General under section 264 the amount or excess amount, as the case may be, as if it had been paid at the particular time to the person as a rebate under this Division.

(2) Subsections 252(3) to (6) of the said Act, as enacted by subsection (1), are repealed and the following substituted therefor:

Assignment of rebate

(3) Where the recipient of a supply assigns, in prescribed form containing prescribed information, to the supplier the right to a rebate under subsection (2) to which the recipient would be entitled in respect of the supply if the recipient paid the tax in respect thereof and satisfied the conditions under section 252.2 and the supplier pays to, or credits in favour of, the recipient the amount of that tax,

(*a*) the supplier may claim a deduction under subsection 234(2) in respect of the supply equal to that amount, and

(*b*) the recipient is not entitled to any rebate, refund or remission of tax in respect of the supply.

(3) Subsection (1) shall be deemed to have come into force on December 17, 1990 except that

(*a*) in applying subsection 252(2) of the said Act, as enacted by subsection (1), on or before ANNOUNCEMENT DATE, the reference therein to subsection 252(3) shall be read as a reference to subsection 252(6);

(*b*) in applying section 252.1 of the said Act, as enacted by subsection (1), to a supply of a tour package that does not include any short-term accommodation that is made available, under the agreement for the supply, after November 5, 1991,

the definition "short-term accommodation" in subsection (1) of that section shall be read as follows:

"short-term accommodation" does not include short-term accommodation that is included in the part of a tour package that is not the taxable portion of the tour package within the meaning assigned by subsection 163(3);

(*c*) in respect of any rebate the application for which is filed before November 6, 1991,

(i) section 252.1 of the said Act, as enacted by subsection (1), shall be read without reference to subsections 252.1(5) to (7) and (9),

(ii) subsection 252.1(4) of the said Act, as enacted by subsection (1), shall be read as follows:

(4) For the purposes of subsections (2), (3) and (8), where a person has paid tax in respect of a supply of a combination of short-term accommodation and other property or services, the amount of tax paid in respect of the accommodation shall be deemed to be equal to

(*a*) if the amount of tax paid in respect of the supply of the accommodation can be substantiated in prescribed manner, the amount so substantiated; and

(*b*) in any other case, an amount calculated in accordance with prescribed rules.

and

(iii) section 252.2 of the said Act, as enacted by subsection (1), shall be read without reference to paragraphs 252.2(*f*) and (*g*);

(*d*) in respect of amounts paid or credited before November 6, 1991 to a person on account of a rebate,

(i) paragraph 252.1(8)(*b*) of the said Act, as enacted by subsection (1), shall be read as follows:

(*b*) the amount paid or credited is equal to the tax paid by the person in respect of the accommodation, and

and

(ii) paragraph 252.1(8)(*c*) of the said Act, as enacted by subsection (1), shall be read as follows:

(*c*) in the case of a rebate under subsection (2), payment of the consideration for the supply is made at a place outside Canada at which the supplier, or an agent thereof, conducts business,

and

(*e*) in applying section 252.2 of the said Act, as enacted by subsection (1), on or before ANNOUNCEMENT DATE, the reference therein to subsection 252(2) shall be read as a reference to "any of subsections 252(2) to (4)."

(4) Subsection (2) shall be deemed to have come into force on THE DAY IMMEDIATELY FOLLOWING ANNOUNCEMENT DATE.

102. (1) Subsections 253(1) and (2) of the said Act are repealed and the following substituted therefor:

Employees and partners

253. (1) Where

(*a*) an individual who is a member of a partnership that is a registrant or who is an employee of a registrant (other than a listed financial institution) acquires or imports

(i) a musical instrument, motor vehicle or aircraft, or

(ii) any other property or a service,

(*b*) tax is payable by the individual in respect of the acquisition or importation, and

(*c*) in the case of an acquisition or importation of a musical instrument, the individual is not entitled to claim an input tax credit in respect thereof,

the Minister shall, subject to subsections (2) and (3), pay a rebate in respect of the property or service to the individual for each calendar year equal to the amount determined by the formula

A x B

where

A is the tax fraction on the last day of the year, and

B is an amount equal to

(*a*) the capital cost allowance in respect of the instrument, vehicle or aircraft,

(*b*) the amount in respect of the acquisition and importation of the other property imported by the individual (not exceeding the total of the value of that property determined under section 215 and the tax calculated thereon), or

(*c*) the amount in respect of

(i) the supply by way of lease, licence or similar arrangement of the instrument, vehicle or aircraft,

(ii) the supply of the service, or

(iii) the supply in Canada of the other property,

as the case may be, that was deducted under the *Income Tax Act* in computing the individual's income for the year from an office or employment or from the partnership, as the case may be, and in respect of which the individual did not receive an allowance from a person, other than an allowance in respect of which the person certifies, in prescribed form containing prescribed information, that, at the time the allowance was paid, the person did not consider it to be a reasonable allowance for the purposes of subparagraph 6(1)(*b*)(v), (vi), (vii) or (vii.1) of that Act.

Restriction on rebate to partner

(2) The rebate in respect of property or a service payable under subsection (1) for a calendar year to an individual who is a member of a partnership shall not exceed the amount that would be an input tax credit of the partnership in respect of the property or service for the last reporting period of the partnership in its last fiscal year ending in that calendar year if

(*a*) in the case of a musical instrument that is capital property of the individual, the partnership had, in that reporting period,

(i) acquired the instrument by way of lease exclusively for use in activities of the partnership and for use in commercial activities thereof to the same extent that the individual's consumption or use of the instrument during that calendar year in activities of the partnership was in commercial activities thereof, and

(ii) paid tax in respect of the instrument equal to the tax fraction of the capital cost allowance in respect of that instrument that was deductible under the *Income Tax Act* in computing the individual's income from the partnership for that calendar year;

(*b*) in the case of a motor vehicle or aircraft that is capital property of the individual,

(i) the partnership had acquired the vehicle or aircraft in that reporting period in circumstances in which subsection 202(4) applies and had used the vehicle or aircraft during that last fiscal year of the partnership in commercial activities of the partnership to the same extent that the individual's use of the vehicle or aircraft during that calendar year in activities of the partnership was in commercial activities thereof, and

(ii) the capital cost allowance deductible in respect of that vehicle or aircraft under the *Income Tax Act* in computing the individual's income from the partnership for that calendar year were the capital cost allowance so deductible in computing the income of the partnership for that last fiscal year of the partnership; and

(*c*) in any other case, the partnership had

(i) acquired the property or service exclusively for use in activities of the partnership and for use in commercial activities thereof to the same extent that the individual's consumption or use of the property or service during that calendar year in activities of the partnership was in commercial activities thereof, and

(ii) paid, in that reporting period, tax in respect of that acquisition equal to the tax fraction of

(A) in the case of property imported by the individual, the amount (not exceeding the total of the value of the property determined under section 215 and the tax calculated thereon) in respect of the acquisition and importation of the property by the individual that was deductible under the *Income Tax Act* in computing the individual's income from the partnership for that calendar year, and

(B) in any other case, the amount in respect of the acquisition of the property or service by the individual that was so deductible in computing that income.

(2) Subsection 253(3) of the said Act is repealed and the following substituted therefor:

Application for rebate

(3) A rebate for a calendar year shall not be paid under subsection (1) to an individual unless, within four years after the end of the year, the individual files an application for the rebate in prescribed form containing prescribed information with the Minister with a return of the individual's income under Part I of the *Income Tax Act*.

One application for any year

(4) An individual shall not make more than one application under this section for a calendar year.

Administration of rebates

(5) Where an individual files an application for a rebate under this section

(*a*) subsections 160.1(1), 164(3), (3.1) and (4) of the *Income Tax Act* apply, with such modifications as the circumstances require, for the purposes of calculating interest on the rebate or any overpayment of the rebate as if the rebate or the overpayment were a refund of tax paid under Part I of that Act or an overpayment of such a refund, as the case may be, and subsection 280(1) does not apply for those purposes to the rebate, and

(*b*) sections 165 to 167 and Division J of Part I of the *Income Tax Act* apply, with such modifications as the circumstances require, to objections to and appeals from an assessment of the amount of the rebate as if it were an assessment of tax payable under Part I of that Act and sections 301 to 311 do not apply to the assessment.

(3) Subsection (1) shall be deemed to have come into force on December 17, 1990 except that in applying subsection 253(1) of the said Act, as enacted by subsection (1), to rebates that relate to the 1991 calendar year, all that portion of the description of B, in the formula set out in that subsection, following paragraph (*c*) thereof shall be read as follows:

as the case may be, that was deducted under the *Income Tax Act* in computing the individual's income for the year from an office or employment or from the partnership, as the case may be, and in respect of which the individual did not receive an allowance from a person, other than an allowance that is not a reasonable allowance for the purposes of subparagraph 6(1)(*b*)(v), (vi), (vii) or (vii.1) of that Act.

(4) Subsection (2) shall be deemed to have come into force on December 17, 1990 and applies to all applications for rebates under section 253 of the said Act made on or after that date, except that in applying subsection 253(3) of the said Act, as enacted by subsection (2), to applications for rebates under section 253 of the said Act in respect of the 1991 taxation year, subsection 253(3) of the said Act, as enacted by subsection (2), shall be read without reference to the words "with a return of the individual's income under Part I of the *Income Tax Act*".

103. (1) Subparagraphs 254(2)(*f*)(i) and (ii) of the said Act are repealed and the following substituted therefor:

(i) in the case of a single unit residential complex, the complex was not occupied by any individual as a place of residence or lodging, and

(ii) in the case of a residential condominium unit, the unit was not occupied by an individual as a place of residence or lodging unless, throughout the time the complex or unit was so occupied, it was occupied as a place of residence by an individual, or a relation of an individual, who was at the time of that occupancy a purchaser of the unit under an agreement of purchase and sale of the unit, and

(2) All that portion of subparagraph 254(2)(*g*)(i) of the said Act preceding clause (A) thereof is repealed and the following substituted therefor:

(i) the first individual to occupy the complex or unit as a place of residence at any time after substantial completion of the construction or renovation is

(3) Subparagraph 254(2)(*g*)(ii) of the said Act is repealed and the following substituted therefor:

(ii) the particular individual makes an exempt supply by way of sale of the complex or unit and ownership thereof is transferred to the recipient of the supply before the complex or unit is occupied by any individual as a place of residence or lodging,

(4) Subsections (1) to (3) shall be deemed to have come into force on December 17, 1990.

104. (1) The said Act is further amended by adding thereto, immediately after section 254 thereof, the following section:

Definitions

254.1 (1) In this section,

"long term lease"
« bail de longue durée »

"long term lease", in respect of land, means a lease of the land having a term of at least twenty years or a lease that contains an option to purchase the land;

"relation"
« proche »

"relation" of a particular individual means another individual who is related to the particular individual or who is a former spouse of the particular individual;

"single unit residential complex"
« immeuble d'habitation à logement unique »

"single unit residential complex" includes a multiple unit residential complex that does not contain more than two residential units.

New housing rebate for building only

(2) Where

(*a*) under an agreement entered into between a builder of a single unit residential complex and a particular individual, the builder makes an exempt supply to the particular individual

(i) by way of a long term lease of, or by way of an assignment of a long term lease of, the land attributable to the complex, and

(ii) by way of sale of the building or part thereof in which the residential unit forming part of the complex is situated,

(*b*) at the time the particular individual becomes liable or assumes liability under the agreement, the particular individual is acquiring the complex for use as the primary place of residence of the particular individual or a relation of the particular individual,

(*c*) the fair market value of the complex, at the time possession of the complex is given to the particular individual under the agreement, is less than $481,500,

(*d*) the builder is deemed under subsection 191(1) to have made a supply of the complex as a consequence of giving possession of the complex to the particular individual under the agreement,

(*e*) possession of the complex is given to the particular individual after the construction or substantial renovation thereof is substantially completed,

(*f*) after the construction or substantial renovation is substantially completed and before possession of the complex is given to the particular individual under the agreement, the complex was not occupied by any individual as a place of residence or lodging, and

(*g*) either

(i) the first individual to occupy the complex as a place of residence after substantial completion of the construction or renovation is the particular individual or a relation of the particular individual, or

(ii) the particular individual makes an exempt supply by way of sale or assignment of the whole of the particular individual's interest in the complex and possession of the complex is transferred to the recipient of the supply before the complex is occupied by any individual as a place of residence or lodging,

the Minister shall, subject to subsection (3), pay a rebate to the particular individual equal to

(*h*) where the fair market value referred to in paragraph (*c*) is not more than $374,500, an amount equal to the lesser of $8,750 and 2.34% of the total (in this subsection referred to as the "total consideration") of all amounts each of which is the consideration payable for the supply to the particular individual of the building referred to in paragraph (*a*), other than consideration that can reasonably be regarded as rent for the supply of the land attributable to the complex or as consideration for the supply of an option to purchase that land, and

(*i*) where the fair market value referred to in paragraph (*c*) is more than $374,500 but less than $481,500, the amount determined by the formula

$$A \times \frac{(\$481,500 - B)}{\$107,000}$$

where

A is the lesser of $8,750 and 2.34% of the total consideration, and

B is the fair market value referred to in paragraph (*c*).

Application for rebate

(3) A rebate shall not be paid in respect of a residential complex under subsection (2) to an individual unless the individual has filed an application for the rebate within four years after the day possession of the complex was transferred to the individual.

Application to builder

(4) Where

(*a*) the builder of a single unit residential complex makes a supply of the complex to an individual under an agreement referred to in paragraph (2)(*a*) and transfers possession of the complex to the individual under the agreement, (*b*) the individual, within four years after the day possession of the complex is transferred to the individual under the agreement for the supply, submits to the builder in prescribed manner an application in prescribed form containing prescribed information for the rebate to which the individual would be entitled under subsection (2) in respect of the complex if the individual applied therefor within the time allowed for such an application, and

(*c*) the builder agrees to pay to, or credit in favour of, the individual any rebate under this section that is payable to the individual in respect of the complex,

the builder may pay to, or credit in favour of the individual, the amount of the rebate, if any.

Forwarding of application by builder

(5) Notwithstanding subsections (2) and (3), where an application of an individual for a rebate under this section in respect of a residential complex is submitted under subsection (4) to the builder of the complex,

(*a*) the builder shall transmit the application to the Minister with the builder's return filed under Division V for the reporting period in which the rebate was paid or credited; and

(*b*) interest under subsection 297(4) is not payable in respect of the rebate.

Joint and several liability

(6) Where the builder of a residential complex pays or credits a rebate under subsection (4) and the builder knows or ought to know that the individual is not entitled to the rebate or that the amount paid or credited exceeds the rebate to which the individual is entitled, the builder and the individual are jointly and severally liable to pay the amount of the rebate or excess to the Receiver General under section 264.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

(3) For the purposes of applying section 254.1 of the said Act, as enacted by this section, paragraph 191(1)(*b*) of the said Act, as enacted by subsection 52(2), shall be deemed to have come into force on December 17, 1990.

105. (1) Paragraphs 255(2)(*b*) to (*d*) of the French version of the said Act are repealed and the following substituted therefor:

b) la coopérative fournit une part de son capital social au particulier et lui en transfère la propriété;

c) au moment où le particulier devient responsable ou assume une responsabilité aux termes du contrat de vente de la part conclu entre la coopérative et le particulier, celui-ci acquiert la part pour qu'une habitation de l'immeuble lui serve de résidence principale ou serve ainsi à son proche;

d) le total des montants – appelé « contrepartie totale » au présent paragraphe – représentant chacun la contrepartie payable pour la fourniture au profit du particulier de la part, d'une participation dans la coopérative ou d'un droit sur l'immeuble ou le logement est inférieur à 481 500 $;

(2) Paragraph 255(2)(*e*) of the said Act is repealed and the following substituted therefor:

(*e*) after the construction or substantial renovation of the complex is substantially completed and before possession of the unit is given to the particular individual as an incidence of ownership of the share, the unit was not occupied by any individual as a place of residence or lodging, and

(3) Subparagraphs 255(2)(*f*)(i) and (ii) of the said Act are repealed and the following substituted therefor:

(i) the first individual to occupy the unit as a place of residence after possession of the unit is given to the particular individual is the particular individual or a relation of the particular individual, or

(ii) the particular individual makes a supply by way of sale of the share and ownership thereof is transferred to the recipient of that supply before the unit is occupied by any individual as a place of residence or lodging,

(4) Subsection 255(3) of the French version of the said Act is repealed and the following substituted therefor:

Demande de remboursement

(3) Le remboursement n'est accordé que si le particulier en fait la demande dans les quatre ans suivant le jour où la propriété de la part du capital social de la coopérative d'habitation lui est transférée.

(5) Subsections (1) to (4) shall be deemed to have come into force on December 17, 1990.

106. (1) Subsection 256(1) of the said Act is repealed and the following substituted therefor:

Definitions

256. (1) In this section,

"relation"
« proche »

"relation" of a particular individual means another individual who is related to the particular individual or who is a former spouse of the particular individual;

"single unit residential complex"
« immeuble d'habitation à logement unique »

"single unit residential complex" includes a multiple unit residential complex that does not contain more than two residential units.

(2) Paragraphs 256(2)(*d*) to (*h*) of the said Act are repealed and the following substituted therefor:

(*d*) either

(i) the first individual to occupy the complex after the construction or substantial renovation is begun is the particular individual or a relation of the particular individual, or

(ii) the particular individual makes an exempt supply by way of sale of the complex and ownership is transferred to the recipient before the complex is occupied by any individual as a place of residence or lodging,

the Minister shall, subject to subsection (3), pay a rebate to the particular individual equal to (*e*) where the fair market value referred to in paragraph (*b*) is not more than $350,000, the lesser of $8,750 and 36% of the total tax paid by the particular individual before an application for the rebate is filed with the Minister in accordance with subsection (3), and

(*f*) where the fair market value referred to in paragraph (*b*) is more than $350,000 but less than $450,000, the amount determined by the formula

$$A \times \frac{(\$450{,}000 - B)}{\$100{,}000}$$

where

A is the lesser of $8,750 and 36% of the total tax paid by the particular individual before an application for the rebate is filed with the Minister in accordance with subsection (3), and

B is the fair market value of the complex referred to in paragraph (*b*).

(3) Section 256 of the said Act is further amended by adding thereto, immediately after subsection (2) thereof, the following subsection:

Purchase of new mobile home

(2.1) For the purposes of this section, where

(*a*) a particular individual receives a supply by way of sale of a mobile home that has never been used or occupied by any individual as a place of residence or lodging and does not file with the Minister, or submit to the supplier, an application for a rebate in respect of the home under section 254 or 254.1,

(*b*) the particular individual is acquiring the home for use as the primary place of residence of the particular individual or another individual who is related to the particular individual or who is a former spouse of the particular individual, and

(*c*) the first individual to occupy the home at any time is the particular individual or another individual referred to in paragraph (*b*) or the particular individual at any time transfers ownership of the home under an agreement for an exempt supply by way of sale of the home, the particular individual shall be deemed to have constructed the home and to have substantially completed the construction immediately before the earlier of the times referred to in paragraph (*c*).

(4) Subsections (1) to (3) shall be deemed to have come into force on December 17, 1990.

(5) Notwithstanding subsection 262(2) of the said Act and subject to section 263 of the said Act, where a person files an application for a rebate under subsection 256(2) of the said Act calculated in accordance with paragraph 256(2)(*f*) or (*h*) of the said Act as those paragraphs would read were it not for the enactment of subsection (3), the person may file a second application for a rebate under subsection 256(2) of the said Act calculated in accordance with paragraph 256(2)(*e*) or (*f*) of the said Act, as amended by this section.

107. (1) The said Act is further amended by adding thereto, immediately after section 256 thereof, the following section:

Rebate to owner of land leased for residential purposes

256.1 (1) Where an exempt supply of land described by paragraph 6.1(*a*) of Part I of Schedule V is made to a particular lessee who is acquiring the land for the purpose of making a supply of property that includes the land

(*a*) that is

(i) an exempt supply described by paragraph 6(*a*) of Part I of Schedule V, or

(ii) an exempt supply described by paragraph 7(*a*) of Part I of Schedule V made to a person described in subparagraph (i) thereof, and

(*b*) that will result in the particular lessee being deemed under any of subsections 190(3) to (5) and section 191 to have made a supply of the property at a particular time,

the Minister shall, subject to subsection (2), pay a rebate, to each person (in this subsection referred to as the "landlord") who is an owner or lessee of the land and is not the particular lessee, equal to the amount determined by the formula

$$A - B$$

where

A is the total (in this subsection referred to as the "total tax charged in respect of the land") of the tax that was or would, but for section 167, have been payable by the landlord in respect of the last acquisition of the land by the landlord and the tax that was payable by the landlord in respect of improvements to the land acquired or imported by the landlord after the land was last so acquired; and

B is the total of all other rebates and input tax credits which the landlord was entitled to claim in respect of any tax included in the total tax charged in respect of the property.

Application for rebate

(2) A rebate shall not be paid under subsection (1) to an owner or lessee of land in respect of a supply of the land made to a person who will be deemed under any of subsections 190(3) to (5) and section 191 to have made on a particular day another supply of the property that includes the land unless the owner or lessee, as the case may be, files an application for the rebate before the day that is four years after the particular day.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

108. (1) Subsection 257(1) of the said Act is repealed and the following substituted therefor:

Non-registrant sale of real property

257. (1) Where a person who is not a registrant makes a particular taxable supply of real property by way of sale, the Minister shall, subject to subsection (2), pay a rebate to the person equal to the amount determined by the formula

A x B

where

A is the lesser of

(*a*) the total (in this subsection referred to as the "total tax charged in respect of the property") of the tax that was payable by the person in respect of the last acquisition of the property by the person and the tax that was payable by the person in respect of improvements to the property acquired or imported by the person after the property was last so acquired, and

(*b*) the tax that is or would, but for section 167, be payable in respect of the particular taxable supply; and

B is

(*a*) where the person was entitled to claim a rebate under section 259 in respect of any tax included in the total tax charged in respect of the property, the difference between 100% and the percentage prescribed for the purposes of that section that was applicable in determining the amount of that rebate, and

(*b*) in any other case, 100%.

(2) Subsection (1) shall be deemed to have come into force on THE DAY IMMEDIATELY FOLLOWING ANNOUNCEMENT DATE.

109. (1) The definitions "charity" and "municipality" in subsection 259(1) of the said Act are repealed and the following substituted therefor:

"charity"
« organisme de bienfaisance »

"charity" includes a non-profit organization that operates, otherwise than for profit, a health care facility within the meaning of paragraph (*c*) of the definition of that expression in section 1 of Part II of Schedule V;

"municipality"
« municipalité »

"municipality" includes a person designated by the Minister, for the purposes of this section, to be a municipality, but only in respect of activities, specified in the designation, that involve the making of supplies (other than taxable supplies) by the person of municipal services;

(2) Subsection 259(1) of the said Act is further amended by adding thereto, in alphabetical order, the following definition:

"non-creditable tax charged"*« taxe exigée non admise au crédit »*

"non-creditable tax charged", in respect of property or a service for a claim period of a person, means the amount, if any, by which

(*a*) the total (in this section referred to as "the total tax charged in respect of the property or service") of all amounts each of which is

(i) tax in respect of the supply or importation of the property or service that became payable by the person during the period or was paid by the person during the period without having become payable (other than tax deemed to have been paid by the person or in respect of which the person is not entitled to claim an input tax credit only because of subsection 226(4)),

(ii) tax deemed under section 191 or subsection 129(6), 129.1(4), 171(3), 200(2) or 211(2) or (4) to have been collected during the period by the person in respect of the property or service,

(iii) tax, calculated on the amount of an allowance in respect of the property or service, that is deemed under section 174 to have been paid during the period by the person,

(iv) tax deemed under section 175 to have been paid during the period by the person in respect of the property or service, or

(v) an amount in respect of the property or service that is required under subsection 129(7) or paragraph 171(4)(*b*) to be added in determining the net tax of the person for the period, exceeds

(*b*) the total of all amounts included in the total determined under paragraph (a) that are included in determining an input tax credit of the person in respect of the property or service for the period;

(3) Subsections 259(2) to (16) are repealed and the following substituted therefor:

Qualifying non-profit organization

(2) For the purposes of this section, a person is a qualifying non-profit organization at any time in a fiscal year of the person if, at that time, the person is a non-profit organization and the percentage of government funding of the person for the year is at least 40%.

Rebate for persons other than designated municipalities

(3) Where a person (other than a listed financial institution and a person designated, for the purposes of this section, to be a municipality) is, on the last day of a claim period of the person or the fiscal year of the person that includes that claim period, a selected public service body, charity or qualifying non-profit organization, the Minister shall, subject to subsection (5), pay a rebate to the person equal to the prescribed percentage of the non-creditable tax charged in respect of property or a service (other than a prescribed property or service) for the claim period.

Rebate for designated municipalities

(4) Where a person is, on the last day of a claim period of the person or of the fiscal year of the person that includes that claim period, designated, for the purposes of this section, to be a municipality in respect of activities (in this subsection referred to as "designated activities") specified in the designation, the Minister shall, subject to subsection (5), pay a rebate to the person in respect of property or a service (other than a prescribed property or service) equal to the amount determined by the formula

$$A \times B$$

where

A is the prescribed percentage of the total tax charged in respect of the property or service for the claim period, and

B is

(*a*) where the property was acquired by way of lease, licence or similar arrangement by the person for consideration that includes two or more periodic payments that are attributable to successive parts (each of which is in this subsection referred to as a "lease interval") of the period for which possession or use of the property is provided under the arrangement and an amount calculated on such a periodic payment is included in the total tax charged in respect of the property for the claim period, the extent (expressed as a percentage) to which the person intended, at the beginning of the lease interval to which the periodic payment is attributable, to use the property in the course of the designated activities,

(*b*) where the service is supplied to the person for consideration that includes two or more payments, each of which is attributable to particular services rendered under the agreement for the supply, and at a particular time during the claim period, tax calculated on a particular payment becomes payable, or is paid without having become payable, by the person and is included in the total tax charged in respect of the service for the claim period, the extent (expressed as a percentage) to which the person had, before the particular time, consumed, used or supplied the particular services to which the particular payment is attributable, or intended at the particular time to consume, use or supply those particular services, in the course of the designated activities, and

(*c*) in any other case, the extent (expressed as a percentage) to which the person intended, at the time the property or service was acquired or imported by the person, to consume, use or supply the property or service in the course of the designated activities.

Application for rebate

(5) A rebate shall not be paid to a person under subsection (3) or (4) in respect of non-creditable tax charged for a claim period in a fiscal year of the person unless the person files an application for the rebate after the first day in the year that the person is a selected public service body, charity or qualifying non-profit organization and within four years after the day that is

(*a*) where the person is a registrant, the day on or before which the person is required to file the return under Division V for the period; and (*b*) where the person is not a registrant, the last day of the period.

Limitation

(6) Except where subsection (10) or (11) applies, a person shall not make more than one application for rebates under this section for any claim period of the person.

Selected public service bodies

(7) Where a selected public service body described in any of paragraphs (*a*) to (*e*) of the definition of that expression in subsection (1) acquires or imports property or a service primarily for consumption, use or supply in the course of activities engaged in by another person described in any other of those paragraphs, for the purpose of determining the amount of a rebate under this section to the body in respect of the non-creditable tax charged in respect of the property or service for any claim period of the body, the body shall be deemed to be engaged in those activities.

Idem

(8) Where a person acquires or imports property or a service primarily for consumption, use or supply in the course of activities engaged in by the person acting in the capacity of a selected public service body described in any of paragraphs (*a*) to (*e*) of the definition of that expression in subsection (1), the amount of any rebate under this section to the person in respect of the non-creditable tax charged in respect of the property or service for a claim period shall be determined as if the person were not a selected public service body described in any other of those paragraphs.

Prescribed percentage

(9) Notwithstanding subsection 31(4) of the *Interpretation Act*, a provision of a regulation made under this Part that prescribes a percentage for the purposes of this section shall not be repealed, amended or varied to have the effect of changing the percentage applicable to a person.

Application by branches or divisions

(10) Where a person who is entitled to a rebate under subsection (3) or (4) is engaged in one or more activities in separate branches or divisions and is authorized under subsection 239(2) to file separate returns under Division V in relation to a branch or division,

(*a*) the person shall file separate applications under this section in respect of the branch or division; and

(*b*) the person shall not make more than one such application in respect of the branch or division for any claim period of the person.

Application of section 239

(11) Where a person who has not made an application under section 239 is entitled to a rebate under subsection (3) or (4) and is engaged in one or more activities in separate branches or divisions,

(*a*) section 239 applies to the person as if the references therein to "commercial activities" were references to "activities", as if the references therein to "returns under this Division" and "returns" were references to "applications under section 259" and as if the references therein to "registrant" were references to "person";

(*b*) where, because of this subsection, a branch or division of the person is authorized under section 239 to file separate applications for rebates under this section, the person shall not make more than one such application in respect of the branch or division for any claim period of the person; and

(*c*) where, because of this subsection, the person is authorized under section 239 to file separate applications for rebates under this section in relation to a branch or division and the person is required to file returns under Division V, the person shall file separate returns under that Division in respect of the branch or division.

(4) Subsections (1) to (3) shall be deemed to have come into force on December 17, 1990.

110. (1) Paragraph 261(2)(*c*) of the said Act is repealed and the following substituted therefor:

(*c*) a rebate of the amount is payable under subsection 215.1(1) or (2) or 216(6) or a refund of the amount is payable under section 69, 73, 74 or 76 of the *Customs Act* because of subsection 215.1(3) or 216(7).

(2) Subsection 261(4) of the said Act is repealed and the following substituted therefor:

One application per month

(4) Subject to subsections (5) and (6), not more than one application for a rebate under this section may be made by a person in any calendar month.

Application by branches and divisions

(5) Where a person who is entitled to a rebate under this section is engaged in one or more activities in separate branches or divisions and is authorized under subsection 239(2) to file separate returns under Division V in relation to a branch or division,

(*a*) the person may file separate applications under this section in respect of the branch or division; and

(*b*) not more than one application for a rebate under this section in respect of the branch or division may be made by the person in any calender month.

Application of section 239

(6) Where a person who has not made an application under section 239 is entitled to a rebate under this section and is engaged in one or more activities in separate branches or divisions,

(*a*) section 239 applies to the person as if the references therein to "commercial activities" were references to "activities", as if the references therein to "returns under this Division" and "returns" were references to "applications under section 261" and as if the references therein to "registrant" were references to "person"; and

(*b*) where, because of this subsection, the person is authorized under section 239 to file separate applications for rebates under this section in relation to a branch or division, not more than one application for a rebate under this section in respect of the branch or division may be made by the person in any calendar month.

(3) Subsection (1) applies to amounts paid as tax under Division III of the said Act on goods that are released (within the meaning assigned by subsection 2(1) of the *Customs Act*) after the day this Act is assented to.

(4) Subsection (2) shall be deemed to have come into force on December 17, 1990.

111. (1) Subsection 262(1) of the said Act is repealed and the following substituted therefor:

Form and filing of application

262. (1) An application for a rebate under this Division (other than section 253) shall be made in prescribed form containing prescribed information and shall be filed with the Minister in prescribed manner.

(2) Subsection 262(3) of the said Act is repealed and the following substituted therefor:

Group of individuals

(3) Where

(*a*) a supply of a single unit residential complex, a multiple unit residential complex that does not contain more than two residential units, a residential condominium unit or a share in a cooperative housing corporation is made to two or more individuals, or

(*b*) two or more individuals construct or substantially renovate, or engage another person to construct or substantially renovate, a single unit residential complex or a multiple unit residential complex that does not contain more than two residential units,

the references in sections 254 to 256 to a particular individual shall be read as references to all of those individuals as a group, but only one of those individuals may apply for the rebate under section 254, 254.1, 255 or 256, as the case may be, in respect of the complex, unit or share.

(3) Subsections (1) and (2) shall be deemed to have come into force on December 17, 1990.

112. (1) All that portion of section 263 of the said Act preceding paragraph (*a*) thereof is repealed and the following substituted therefor:

Restriction on rebate

263. A rebate of an amount under subsection 215.1(1) or (2) or 216(6) or any of sections 252 to 261 or a refund of an amount that, because of subsection 215.1(3) or 216(7), is payable under section 69, 73, 74 or 76 of the *Customs Act* shall not be paid to a person to the extent that it can reasonably be regarded that

(2) Subsection (1) applies to rebates of amounts paid as tax under Division III of the said Act on goods that are released (within the meaning assigned by subsection 2(1) of the *Customs Act*) after the day this Act is assented to.

113. (1) The said Act is further amended to adding thereto, immediately after section 263 thereof, the following section:

Idem

263.1 Where a trustee is appointed under the *Bankruptcy Act* to act in the administration of the estate of a bankrupt, a rebate under this Part that the bankrupt was entitled to claim before the appointment shall not be paid to the bankrupt after the appointment unless all returns required, under this Part, to be filed for reporting periods of the bankrupt ending before the appointment have been filed and all amounts required, under this Part, to be remitted by the bankrupt and all amounts payable, under this Part, by the bankrupt as penalty, interest, an instalment or a repayment in respect of those reporting periods have been remitted or paid, as the case may be.

(2) Subsection (1) shall be deemed to have come into force on THE DAY IMMEDIATELY FOLLOWING ANNOUNCEMENT DATE.

114. (1) All that portion of subsection 264(1) of the said Act preceding paragraph (*a*) thereof is repealed and the following substituted therefor:

Overpayment of rebate

264. (1) Where an amount is paid to a person as a rebate under section 215.1, subsection 216(6) or this Division (other than section 253) and the person was not entitled to the rebate or the amount paid exceeds the rebate to which the person was entitled, the person shall pay the amount of the rebate or the excess, as the case may be, to the Receiver General not later than

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990, except that in applying subsection 264(1) of the said Act, as enacted by subsection (1), before the day this Act is assented to, it shall be read without reference to "subsection 216(6)".

115. (1) Paragraph 265(1)(*c*) of the said Act is repealed and the following substituted therefor:

(*c*) the property and money of the bankrupt immediately before that time shall be deemed not to pass to and be vested in the trustee in bankruptcy on the receiving order being made or the assignment in bankruptcy being filed but to remain vested in the bankrupt;

(2) Subparagraph 265(1)(*d*)(i) of the said Act is repealed and the following substituted therefor:

(i) the trustee is liable for the payment of tax payable before that time and for the remittance of tax collected before that time only to the extent of the property and money of the bankrupt in possession of the trustee available to satisfy the liability, and

(3) All that portion of paragraph 265(1)(*d*) of the said Act, as amended by subsection (2), preceding subparagraph (ii) thereof is repealed and the following substituted therefor:

(*d*) the bankrupt and the trustee in bankruptcy are jointly and severally liable for the payment or remittance of all amounts (other than amounts that relate solely to activities to which the bankruptcy does not apply, that the bankrupt begins to engage in after the bankruptcy) that become payable or remittable by the bankrupt under this Part before or during the period beginning at that time and ending with the discharge of the trustee under the *Bankruptcy Act*, except that

(i) the trustee is liable for the payment of tax payable or remittance of amounts that became payable or remittable before that time only to the extent of the property and money of the bankrupt in possession of the trustee available to satisfy the liability, and

(4) Paragraph 265(1)(*i*) of the said Act is repealed and the following substituted therefor:

(*i*) the property and money held by the trustee for the bankrupt immediately before an absolute order of discharge of the bankrupt is granted under the *Bankruptcy Act* shall be deemed not to pass to the bankrupt on the order being granted but to have been held by and vested in the bankrupt continuously since the day it was acquired by the bankrupt or the trustee, as the case may be.

(5) Subsections (1), (2) and (4) shall be deemed to have come into force on December 17, 1990.

(6) Subsection (3) applies to amounts that become payable or remittable by a bankrupt after ANNOUNCEMENT DATE.

116. (1) All that portion of paragraph 266(1)(*c*) of the said Act preceding subparagraph (ii) thereof is repealed and the following substituted therefor:

(*c*) the receiver and the person are jointly and severally liable for the payment or remittance of all amounts (other than amounts that relate solely to activities of the person to which the appointment does not relate) that become payable or remittable by the person under this Part before that time or during the period during which the receiver is acting as receiver for the person, except that

(i) the receiver is liable for the payment or remittance of amounts that become payable or remittable before that time only to the extent of the property and money of the person in possession or under the control and management of the receiver, and

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990 except that, with respect to amounts that become payable or remittable on or before ANNOUNCEMENT DATE, all that portion of paragraph 266(1)(*c*) of the said Act preceding subparagraph (ii) thereof, as enacted by subsection (1), shall be read as follows:

(*c*) the receiver and the person are jointly and severally liable for the payment of any tax payable by the person before that time or during the period during which the receiver is acting as receiver for the person and for the remittance of any tax collected by the person before that time or during that period, except that

(i) the receiver is liable for the payment of tax payable before that time and the remittance of tax collected before that time only to the extent of the property and money of the person in possession or under the control and management of the receiver, and

117. (1) Section 273 of the said Act is repealed and the following substituted therefor:

Joint venture election

273. (1) Where a registrant (in this section referred to as the "operator") is a participant in a joint venture (other than a partnership) under an agreement, evidenced in writing, with another person (in this section referred to as the "co-venturer") for the exploration or exploitation of mineral deposits or for an activity designated by the Minister as an eligible activity for the purposes of this section and the operator and the co-venturer jointly make an election under this subsection,

(*a*) all properties and services that are, during the period the election is in effect, supplied, acquired or imported under the agreement by the operator on behalf of the co-venturer in the course of the activities for which the agreement was entered into shall, for the purposes of this Part, be deemed to be supplied, acquired or imported, as the case may be, by the operator and not by the co-venturer;

(*b*) section 177 does not apply in respect of a supply referred to in paragraph (*a*); and

(*c*) all supplies of property or services made, during the period the election is in effect, under the agreement by the operator to the co-venturer shall, for the purposes of this Part, be deemed not to be supplies to the extent that the property or services are, but for this section, acquired by the co-venturer for consumption, use or supply in the course of commercial activities for which the agreement was entered into.

Assignee of interest in joint venture

(2) For the purposes of this section, where a particular person has made an election under this section with respect to a joint venture and at any time during the period the election is in effect another person becomes a participant in the venture by acquiring an interest therein from the particular person, the other person shall be deemed to have made, at that time, an election under this section in accordance with subsection (4) with respect to the venture jointly with the operator of the venture.

Revocation

(3) An operator and a co-venturer who have jointly made an election under this section may jointly revoke the election.

Form of election or revocation

(4) An election or revocation under this section made jointly by an operator and a co-venturer is not a valid election or revocation unless it is made in prescribed form containing prescribed information and specifies the effective date of the election or revocation.

Joint and several liability

(5) Where a registrant makes, or purports to make, an election under subsection (1) jointly with another person in respect of an agreement between the registrant and the person, the registrant and the other person shall be jointly and severally liable for all obligations under this Part that result from the activities for which the agreement was entered into and that are or would, but for this section, be engaged in by the registrant on behalf of the other person.

Joint venture beginning before 1991

(6) Where an operator who is a participant in a joint venture (other than a partnership) under an agreement referred to in subsection (1) entered into before 1991 with a co-venturer files a return for the operator's first reporting period beginning after 1990 in which all properties and services supplied, acquired or imported by the operator on behalf of the co-venturer in the course of the activities for which the agreement was entered into are reported as having been supplied, acquired or imported, as the case may be, by the operator and not by the co-venturer, the operator shall be deemed to have made jointly with the co-venturer an election under this section in accordance with subsection (4).

Application of subsection (6)

(7) Subsection (6) applies as between an operator and a co-venturer, in respect of an agreement, only where

(*a*) the operator sends a notice in writing to the co-venturer not later than December 31, 1990 of the operator's intention to file a return for the operator's first reporting period beginning after 1990 reporting on the basis provided in subsection (6) with respect to all property and services supplied, acquired or imported by the operator on behalf of the co-venturer in the course of the activities for which the agreement was entered into; and

(*b*) the co-venturer has not, on or before the day that is the earlier of February 1, 1991 and the day that is 30 days after receipt of the notice from the operator, advised the operator in writing that all property and services supplied, acquired or imported by the operator on the co-venturer's behalf in the course of the activities for which the agreement was entered into are not to be treated as having been supplied, acquired or imported by the operator.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990 except that paragraph 273(1)(*c*) of the said Act, as enacted by subsection (1), shall be read, with respect to any supply made before September 15, 1992 to the person referred to therein as the "co-venturer", as follows:

(*c*) all supplies of property or services made to the co-venturer by the operator under the agreement and in the course of the activities for which the agreement was entered into shall, for the purposes of this Part, be deemed not to be supplies.

118. (1) Subsection 280(4) of the said Act is repealed and the following substituted therefor:

Unpaid penalty and interest

(4) Where a person is required to pay a penalty or interest under subsection (2) in respect of an instalment required under subsection 237(1) to be paid within the time specified in that subsection and the penalty or interest, as the case may be, has not been paid on or before the day on or before which the tax on account of which the instalment was payable is required to be remitted, the penalty or interest, as the case may be, shall be deemed, for the purposes of this Part, to be an amount required to be remitted by the person on or before that day that has not been remitted on or before that day.

Payment of penalty and interest

(4.1) Where penalty computed at a rate per year or interest is compounded on a particular day on an amount that a person has failed to pay or remit when required under this Part, the penalty or interest, as the case may be, so compounded shall, for the purpose of this section, be deemed to be required to be paid by the person to the Receiver General at the end of the particular day, and, where the person has not paid the penalty or interest, as the case may be, so computed by the end of the next following day, the penalty or interest, as the case may be, shall be added to the amount at the end of the particular day.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

119. (1) The said Act is further amended by adding thereto, immediately after section 281 thereof, the following section:

Waiving or cancelling interest

281.1 (1) The Minister may, in prescribed circumstances, waive or cancel interest payable by a person under section 280.

Waiving or cancelling penalties

(2) The Minister may, in prescribed circumstances, waive or cancel penalties payable by a person under section 280.

Limit on waiver

(3) The Minister shall not, in circumstances prescribed for the purposes of subsection (1) or (2), waive any penalty or interest payable at any time by a person under section 280 to the extent that the waiver would reduce the total of the penalty and interest payable at that time by the person under that section to an amount that is less than an amount prescribed for those circumstances.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

120. (1) The definitions "authorized person", "court of appeal" and "official" in subsection 295(1) of the said Act are repealed and the following substituted therefor:

"authorized person"
« personne autorisée »

"authorized person" means a person who is engaged or employed, or who was formerly engaged or employed, by or on behalf of Her Majesty in right of Canada or a province to assist in carrying out the provisions of this Act;

"court of appeal"
« cour d'appel »

"court of appeal" has the meaning assigned by paragraphs (*a*) to (*l*) of the definition "court of appeal" in section 2 of the *Criminal Code*;

"official"
« fonctionnaire »

"official" means any person who is employed in the service of, who occupies a position of responsibility in the service of, or who is engaged by or on behalf of, Her Majesty in right of Canada or a province, or any person who was formerly so employed, who formerly occupied such a position or who formerly was so engaged.

(2) Subsection 295(1) of the said Act is further amended by adding thereto, in alphabetical order, the following definition:

"personal information
« renseignement confidentiel »

"personal information" means information of any kind and in any form relating to one or more persons that is

(*a*) obtained by or on behalf of the Minister for the purposes of this Part, or

(*b*) prepared from information referred to in paragraph (*a*),

but does not include information that does not directly or indirectly reveal the identity of the person to whom it relates.

(2) Subsections 295(2) to (6) of the said Act are repealed and the following substituted therefor:

Provision of information

(2) Except as authorized under this section, no official shall knowingly

(*a*) provide, or allow to be provided, to any person any personal information;

(*b*) allow any person to have access to any personal information; or (*c*) use any personal information other than in the course of the administration or enforcement of this Part.

Idem

(3) Notwithstanding any other Act of Parliament or other law, no official shall be required, in connection with any legal proceedings, to give or produce evidence relating to any personal information.

Communications where proceedings have been commenced

(4) Subsections (2) and (3) do not apply in respect of

(*a*) criminal proceedings, either by indictment or on summary conviction, that have been commenced by the laying of an information or the preferring of an indictment, under an Act of Parliament; or

(*b*) any legal proceedings relating to the administration or enforcement of this Act, the *Canada Pension Plan* or the *Unemployment Insurance Act* or any other Act of Parliament or law of a province that provides for the imposition or collection of a tax or duty.

Circumstances involving danger

(4.1) The Minister may provide to appropriate persons any personal information relating to imminent danger of death or physical injury to any individual.

Disclosure of personal information

(5) An official may

(*a*) provide personal information to any person as may reasonably be regarded as necessary for the purpose of the administration or enforcement of this Act, solely for that purpose;

(*b*) provide to a person personal information that can reasonably be regarded as necessary for the purposes of determining any liability or obligation of the person or any refund, rebate or input tax credit to which the person is or may become entitled under this Act;

(*c*) provide, allow to be provided, or allow inspection of or access to any personal information to or by

(i) any person, or any person within a class of persons, that the Minister may authorize, subject to such conditions as the Minister may specify, or

(ii) any person otherwise legally entitled thereto by reason of an Act of Parliament, solely for the purposes for which that person is entitled to the information.

(*d*) provide personal information

(i) to an official of the Department of Finance solely for the purposes of the formulation or evaluation of fiscal policy,

(ii) to an official solely for the purposes of the initial implementation of a fiscal policy or for the purposes of the administration or enforcement of the *Canada Pension Plan*, the *Unemployment Insurance Act* or an Act of Parliament that provides for the imposition or collection of a tax or duty,

(iii) to an official solely for the purposes of the administration or enforcement of a law of a province that provides for the imposition or collection of a tax or duty,

(iv) to an official of the government of a province solely for the purposes of the formulation or evaluation of fiscal policy,

(v) to an official of a department or agency of the Government of Canada or of a province as to the name, address, occupation, size or type of business of a person, solely for the purposes of enabling that department or agency to obtain statistical data for research and analysis,

(vi) to an official solely for the purposes of setting off against any sum of money that may be due or payable by Her Majesty in right of Canada a debt due to

(A) Her Majesty in right of Canada, or

(B) Her Majesty in right of a province on account of taxes payable to the province where an agreement exists between Canada and the province under which Canada is authorized to collect taxes on behalf of the province, or

(vii) to an official solely for the purposes of section 7.1 of the *Federal-Provincial Fiscal Arrangements and Federal Post-secondary Education and Health Contributions Act*;

(*e*) provide personal information solely for the purposes of sections 23 to 25 of the *Financial Administration Act*;

(*f*) use personal information to compile information in a form that does not directly or indirectly reveal the identity of the person to whom the information relates;

(*g*) use, or provide to any person, personal information solely for a purpose relating to the supervision, evaluation or discipline of an authorized person by Her Majesty in right of Canada in respect of a period during which the authorized person was employed by or engaged by or on behalf of Her Majesty in right of Canada to assist in the administration or enforcement of this Act, to the extent that the information is relevant for that purpose;

(*h*) provide access to records of personal information to the National Archivist of Canada or a person acting on behalf of or under the direction of the National Archivist of Canada, solely for the purposes of section 5 of the *National Archives of Canada Act*, and transfer such records to the care and control of such persons solely for the purposes of section 6 of that Act; or

(*i*) use personal information relating to a person to provide information to the person.

Measures to prevent unauthorized use or disclosure

(5.1) The person presiding at a legal proceeding relating to the supervision, evaluation or discipline of an authorized person may order such measures as are necessary to ensure that personal information is not used or provided to any person for any purpose not relating to that proceeding, including

(*a*) holding a hearing *in camera*;

(*b*) banning the publication of the information;

(*c*) concealing the identity of the person to whom the information relates; and (*d*) sealing the records of the proceeding.

Disclosure to taxpayer or on consent

(6) An official may provide personal information relating to a person

(*a*) to that person; and

(*b*) with the consent of that person, to any other person.

(3) All that portion of subsection 295(7) of the said Act preceding paragraph (*a*) thereof is repealed and the following substituted therefor:

Appeal from order or direction

(7) An order or direction that is made in the course of or in connection with any legal proceedings and that requires an official to give or produce evidence relating to any personal information may, by notice served on all interested parties, be appealed forthwith by the Minister or by the person against whom the order or direction is made to

121. (1) Subsection 296(4) of the said Act is repealed and the following substituted therefor:

Allowance of rebate

(4) Where, in assessing the net tax of a person or the tax payable by a person, the Minister determines that tax under Division II or IV is payable by the person and that a rebate or refund provided for under this Part of all or part of that tax would have been payable to the person if the person had paid that tax and applied for the rebate or refund in accordance with this Part, the Minister may

(*a*) apply the amount of the rebate or refund against the amount assessed on account of that tax as if the person had filed an application for the rebate or refund

(i) where the person was required to account for that tax in a return, on the day on or before which the return was required to be filed, and

(ii) in any other case, on the day the tax became payable; or (*b*) except where the assessment is made under subsection 298(4) after the time otherwise limited therefor by subsection 298(1), pay the rebate or refund to the person or apply it against any net tax remittable or tax payable by the person for any reporting period of the person for which a return was filed before the day the assessment is made.

Idem

(4.1) Where, in assessing the net tax of a person or the tax payable by a person, the Minister determines that the person included, in determining an input tax credit of the person, an amount that exceeds the amount that the person was entitled to so include (which excess is referred to in this subsection as the "excess amount") and a rebate or refund provided for under this Part of all or part of the excess amount would have been payable to the person if the person had applied for the rebate or refund in accordance with this Part, the Minister may

(a) apply the amount of the rebate or refund against the amount assessed on account of the excess amount as if the person had filed an application for the rebate or refund on the day on or before which the person was required to file the return in which the excess amount was claimed; or

(b) except where

(i) the rebate is payable under subsection 216(6) in respect of imported goods and the assessment is not made within two years after the goods were released, or

(ii) the assessment is made under subsection 298(4) after the time otherwise limited therefor by subsection 298(1),

pay the rebate or refund to the person or apply it against any net tax remittable or tax payable by the person for any reporting period of the person for which a return was filed before the day the assessment is made.

(2) All that portion of subsection 296(5) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Deemed claim or application

(5) Where, in assessing the net tax of a person or the tax payable by a person, the Minister takes into account an amount in respect of an input tax credit or a deduction under subsection (2) or applies or pays an overpayment under any of subsections (3) to (4.1),

(3) Subsections (1) and (2) shall be deemed to have come into force on THE DAY IMMEDIATELY FOLLOWING ANNOUNCEMENT DATE.

122. (1) All that portion of subsection 297(4) of the said Act preceding paragraph (*a*) thereof is repealed and the following substituted therefor:

Interest on rebate

(4) Where a rebate under this Division (other than section 253) is paid to a person under subsection (3), the Minister shall pay interest at the prescribed rate to the person on the rebate for the period beginning on the day that is

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

123. Subsection 309(2) of the said Act is repealed.

124. (1) Subsection 325(1) of the said Act is repealed and the following substituted therefor:

Tax liability re transfers not at arm's length

325.(1) Where at any time a person transfers property, either directly or indirectly, by means of a trust or by any other means whatever, to

(*a*) the transferor's spouse or an individual who has since become the transferor's spouse,

(*b*) an individual who was under eighteen years of age, or

(*c*) another person with whom the transferor was not dealing at arm's length,

the transferee and transferor are jointly and severally liable to pay under this Part an amount equal to the lesser of (*d*) the amount determined by the formula

A - B

where

A is the amount, if any, by which the fair market value of the property at that time exceeds the fair market value at that time of the consideration given by the transferee for the transfer of the property, and

B is the amount, if any, by which the amount assessed the transferee under subsection 160(2) of the *Income Tax Act* in respect of the property exceeds the amount paid by the transferor in respect of the amount so assessed, and

(*e*) the total of all amounts each of which is

(i) an amount that the transferor is liable to pay or remit under this Part for the reporting period of the transferor that includes that time or any preceding reporting period of the transferor, or

(ii) interest or penalty for which the transferor is liable as of that time,

but nothing in this subsection limits the liability of the transferor under any provision of this Part.

(2) Subsection 325(4) of the said Act is repealed and the following substituted therefor:

Special transfers to spouse

(4) Notwithstanding subsection (1), where at any time an individual transfers property to the individual's spouse under a decree, order or judgment of a competent tribunal or under a written separation agreement and, at that time, the individual and the individual's spouse were separated and living apart as a result of a breakdown of their marriage, for the purposes of paragraph (1)(*d*), the fair market value at that time of the property so transferred shall be deemed to be nil, but nothing in this subsection limits the liability of the individual under any provision of this Part.

Meaning of "property"

(5) In this section, "property" includes money.

(3) Subsections (1) and (2) shall be deemed to have come into force on December 17, 1990.

125. (1) Section 328 of the said Act is repealed and the following substituted therefor:

Offence re confidential information

328. (1) Every person who

(*a*) contravenes subsection 295(2), or

(*b*) knowingly contravenes an order made under subsection 295(5.1)

is guilty of an offence and is liable on summary conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding twelve months, or to both.

Idem

(2) Every person

(*a*) to whom personal information has been provided for a particular purpose pursuant to paragraph 295(5)(*b*), (*c*) or (*g*), or

(*b*) who is an official to whom personal information has been provided for a particular purpose pursuant to paragraph 295(5)(*a*), (*d*), (*e*) or (*h*)

and who for any other purpose knowingly uses, provides to any person, allows the provision to any person of, or allows any person access to, that information is guilty of an offence and liable on summary conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding twelve months or to both.

Definitions

(3) In subsections (1) and (2), "official" and "personal information" have the meanings assigned by subsection 295(1).

126. (1) Paragraph 336(2)(*f*) of the said Act is repealed and the following substituted therefor:

(*f*) where the individual is a builder of the complex,

(i) if the individual is a builder of the complex only because of paragraph (*d*) of the definition "builder" in subsection 123(1),

(A) the individual shall be deemed not to be a builder of the complex, and

(B) for the purposes of determining whether any other person who, after that time, makes a supply of the complex or an interest therein is a builder of the complex, the complex shall be deemed to have been occupied at that time by an individual as a place of residence, and

(ii) in any other case, for the purposes of determining an input tax credit of the individual, the individual shall be deemed to have paid, at that time, tax in respect of the supply equal to 4% of the consideration for the supply,

(2) Paragraph 336(3)(*f*) of the said Act is repealed and the following substituted therefor:

(*f*) where the person is a builder of the unit,

(i) if the person is a builder of the unit only because of paragraph (*d*) of the definition "builder" in subsection 123(1),

(A) the person shall be deemed not to be a builder of the unit, and

(B) for the purposes of determining whether any other person who, after that time, makes a supply of the unit or an interest therein is a builder of the unit, the condominium complex in which the unit is located shall be deemed to have been registered at that time as a condominium and the unit shall be deemed to have been occupied at that time by an individual as a place of residence, and

(ii) in any other case, for the purposes of determining an input tax credit of the person, the person shall be deemed to have paid, at that time, tax in respect of the supply equal to 4% of the consideration for the supply,

(3) Paragraph 336(4)(*a*) of the said Act is repealed and the following substituted therefor:

(*a*) a taxable supply by way of sale of a condominium complex in Canada is made to a person under an agreement in writing entered into before October 14, 1989 between the supplier and the person,

(4) Paragraphs 336(4)(*e*) and (*f*) of the said Act are repealed and the following substituted therefor:

(*e*) subsection 191(1) does not apply in respect of any residential condominium unit located in the complex before ownership of the complex is transferred to the person,

(*f*) where the person is a builder of the complex,

(i) if the person is a builder of the complex only because of paragraph (*d*) of the definition "builder" in subsection 123(1),

(A) the person shall be deemed not to be a builder of the complex or of any residential condominium unit located in the complex, and

(B) for the purposes of determining whether any other person who, after that time, makes a supply of the complex, a residential condominium unit located in the complex or an interest in the complex or unit is a builder of the complex or of any unit located in the complex, the complex shall be deemed to have been registered at that time as a condominium and each of the units shall be deemed to have been occupied at that time by an individual as a place of residence, and

(ii) in any other case, for the purposes of determining an input tax credit of the person, the person shall be deemed to have paid, at that time, tax in respect of the supply equal to 4% of the consideration for the supply, and

(5) Subsections (1) to (4) shall be deemed to have come into force on December 17, 1990.

127. (1) Section 337 of the said Act is amended by adding thereto, immediately after subsection (1) thereof, the following subsection:

Conditional sales and instalment sales

(1.1) No tax is payable in respect of a supply by way of sale (other than a sale resulting from the exercise, after 1990, of an option to purchase contained in a lease, licence or similar arrangement) of tangible personal property to the extent that the property was delivered, or ownership thereof was transferred, to the recipient before 1991 in accordance with the terms of an agreement in writing entered into before 1991 for the supply.

(2) Subsection 337(6) of the said Act is repealed and the following substituted therefor:

Idem

(6) Subject to subsections (2), (4), 341(1), 342(1) and 343(1), where a taxable supply of tangible personal property by way of sale or of a service is made in Canada to a person other than a consumer by a supplier in the ordinary course of a business, to the extent that any consideration (other than an instalment payable under a contract in respect of which subsection 118(3) or (4) applies) became due or was paid without having become due after August 1989 and before September 1990 for property that was not delivered to the person and the ownership of which was not transferred to the person before 1991 or for any of the service that was not performed before 1991, tax is payable in respect of that consideration and the person shall, on or before April 1, 1991, file with the Minister in prescribed manner a return in prescribed form containing prescribed information and remit that tax to the Receiver General.

(3) Subsections (1) and (2) shall be deemed to have come into force on December 17, 1990.

128. (1) The said Act is further amended by adding thereto, immediately after section 340 thereof, the following section:

Adjustments

340.1 (1) Where a person remits tax under subsection 337(6) or 340(2) calculated on the consideration or a part thereof for a taxable supply and that consideration or part thereof is subsequently reduced, to the extent that the person did not claim, and is not, but for this section, entitled to claim, an input tax credit or a rebate in respect of the portion of the tax that was calculated on the amount by which the consideration or part thereof was reduced, that portion shall be deemed, for the purposes of determining a rebate under section 261, to be an amount that was not payable or remittable by the person.

Application

(2) Subsection (1) does not apply in circumstances in which section 161 or 176 applies.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

129. (1) Subsection 341(3) of the said Act is repealed and the following substituted therefor:

Payments before 1991

(3) Subject to subsection 337(2), where any consideration for a taxable supply of a service (other than a freight transportation service or a service that is the transportation of an individual) is paid after August 1990 and before 1991 without having become due or becomes due after August 1990 and before 1991, that consideration shall be deemed to have become due on January 1, 1991 and not to have been paid before 1991.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

130. (1) Subsections 342(1) and (2) of the said Act are repealed and the following substituted therefor:

Legal service performed before 1991

341.1 (1) No tax is payable in respect of the consideration for a supply of a legal service to the extent that the consideration relates to any part of the service that was performed before 1991 and, under the agreement for the supply, does not become due

(*a*) until allowed, directed or ordered by a court; or

(*b*) until the completion or termination of the service provided by the supplier.

Service of representative, trustee, receiver or liquidator

(2) No tax is payable in respect of the consideration for a supply of a service of a personal representative in respect of the administration of an estate, or a service of a trustee, receiver or liquidator, to the extent that the consideration relates to any part of the service that was performed before 1991 and does not become due

(*a*) in the case of the service of the personal representative, until it is approved by all beneficiaries of the estate;

(*b*) in the case of the service of the trustee, until a date determined under the terms of the trust or an agreement in writing for the supply; or

(*c*) in any case, until it is allowed, directed or ordered by a court.

Idem

(3) For the purposes of subsections (1) and (2), where substantially all of a service is performed before 1991, all of the service shall be deemed to have been performed before 1991.

Transportation of individuals

342. (1) No tax is payable in respect of a supply of a service that is the transportation of an individual (other than a service to which subsection (3) applies) where the service begins before 1991.

Idem

(2) Where any consideration for a supply of a service that is the transportation of an individual (other than a service to which subsection (3) applies) is paid after August 1990 and before 1991 without having become due or becomes due after August 1990 and before 1991, that consideration shall be deemed to have become due on January 1, 1991 and not to have been paid before 1991.

Transportation pass before February 1991

(2.1) No tax is payable in respect of a supply made by a person to an individual of a transportation pass that entitles the individual to transportation services during a period beginning before 1991 and ending before February 1991 without payment of consideration by the individual each time a supply of a transportation service is made to the individual.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

131. (1) All that portion of subsection 346(1) of the said Act preceding paragraph (*b*) thereof is repealed and the following substituted therefor:

Transitional credit for small businesses

346. (1) Where a person (other than a listed financial institution) is, in the particular fiscal quarter that is the first fiscal quarter of the person beginning in 1991, required to be registered under subsection 240(1) and the total of all consideration that in the particular fiscal quarter became due or was paid without becoming due for taxable supplies made by the person in the course of a business does not exceed $500,000,

(*a*) where the reporting period of the person is a fiscal quarter or a fiscal month, the person may deduct the specified amount of the person in determining the person's net tax for the last reporting period of the person ending in the particular fiscal quarter, or for any subsequent reporting period of the person ending in 1991, the return under Division V for which is filed before 1993, and

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

132. (1) The said Act is further amended by adding thereto, immediately after section 346 thereof, the following section:

Transitional credit for taxi businesses

346.1 (1) Where a small supplier carrying on a taxi business is registered under Subdivision d of Division V before April 1991, the supplier may, in determining the net tax for

(*a*) where the reporting period of the supplier is a fiscal quarter or fiscal month, each reporting period of the supplier that ends in 1991 on or after the last day of the first fiscal quarter of the supplier beginning in that year, and

(*b*) in any other case, the first reporting period of the supplier beginning after 1990,

deduct the specified amount of the supplier for that reporting period, where that net tax would be a positive amount if it were determined without reference to this subsection and the return under Division V for that period is filed before 1993.

Specified amount

(2) For the purposes of subsection (1), the specified amount of a supplier for a reporting period of the supplier is an amount equal to the lesser of

(*a*) the positive amount, if any, that would be the net tax for the period if that amount were determined without reference to that subsection, and

(*b*) the amount determined by the formula

$$A - B$$

where

A is $300, and

B is the total of all amounts each of which is an amount that, because of that subsection, was deducted in determining the net tax for a preceding reporting period of the supplier.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

133. (1) Paragraphs 8(*b*) and (*c*) of Schedule I to the said Act are repealed and the following substituted therefor:

(*b*) that is sold under conditions that would qualify the sale as a zero-rated supply for the purposes of Part IX of the Act or that is purchased by and for the personal or official use of a person who is entitled to the tax exemptions specified in article 34 of Schedule I or article 49 of Schedule II to the *Foreign Missions and International Organizations Act*; or

(*c*) that is included as permanently installed equipment in an automobile, station wagon, van or truck, that is sold under conditions that would qualify the sale as a zero-rated supply for the purposes of Part IX of the Act or that is purchased by and for the personal or official use of a person who is entitled to the tax exemptions specified in article 34 of Schedule I or article 49 of Schedule II to the *Foreign Missions and International Organizations Act*.

(2) Subsection (1) shall be deemed to have come into force on January 1, 1991.

134. (1) Section 10 of Schedule I to the said Act is repealed and the following substituted therefor:

10. Section 6 does not apply in respect of any of the goods mentioned therein that are

(*a*) sold under conditions that would qualify the sale as a zero-rated supply for the purposes of Part IX of the Act;

(*b*) purchased or imported for police or fire-fighting services; or

(*c*) purchased by and for the personal or official use of a person who is entitled to the tax exemptions specified in article 34 of Schedule I or article 49 of Schedule II to the *Foreign Missions and International Organizations Act*.

(2) Subsection (1) shall be deemed to have come into force on January 1, 1991.

135. (1) Sections 2 to 6 of Part I of Schedule V to the said Act are repealed and the following substituted therefor:

2. A supply by way of sale of a residential complex or an interest therein made by a person who is not a builder of the complex or, where the complex is a multiple unit residential complex, an addition thereto, unless the person claimed an input tax credit in respect of the last acquisition by the person of the complex, or in respect of the acquisition or importation by the person, after the complex was last acquired by the person, of an improvement to the complex.

3. A supply by way of sale of a residential complex or an interest therein made by an individual who is a builder of the complex or, where the complex is a multiple unit residential complex, an addition thereto if

(*a*) at any time after the construction or substantial renovation of the complex or addition is substantially completed, the complex is used primarily as a place of residence of the individual, an individual related to the individual or a former spouse of the individual, and (*b*) the complex is not used primarily for any other purpose after the construction or substantial renovation is substantially completed and before that time,

unless the individual claimed an input tax credit in respect of the last acquisition by the individual of the real property included in the complex or in respect of the acquisition or importation by the individual, after the real property was last acquired by the individual, of an improvement to the real property.

4. A supply by way of sale of a single unit residential complex (in this section referred to as the "complex") or a residential condominium unit (in this section referred to as the "unit") or an interest in the complex or unit made by a builder of the complex or unit where

(*a*) in the case of a unit situated in a residential complex (in this section referred to as the "premises") that was converted by the builder from use as a multiple unit residential complex to use as a condominium complex, the builder received an exempt supply of the premises by way of sale or was deemed under subsection 191(3) of the Act to have received a taxable supply of the premises by way of sale, and that supply was the last supply of the premises made by way of sale to the builder, or

(*b*) in any case, the builder received an exempt supply of the complex or unit by way of sale or was deemed under subsection 191(1) or (2) of the Act to have received a taxable supply of the complex or unit by way of sale, and that supply was the last supply of the complex or unit made by way of sale to the builder,

unless

(*c*) after the complex, unit or premises was last acquired by the builder, the builder carried on, or engaged another person to carry on for the builder, the substantial renovation of the complex, unit or premises, or

(*d*) the builder claimed an input tax credit in respect of the last acquisition by the builder of the complex, unit or premises or in respect of the acquisition or importation by the builder, after the complex, unit or premises was last acquired by the builder, of an improvement to the complex, unit or premises.

5. A supply by way of sale of a multiple unit residential complex or an interest therein made by a person who is a builder of the complex or an addition thereto where

(*a*) in the case of a person who is a builder of the complex, the person received an exempt supply of the complex by way of sale, or was deemed under subsection 191(3) of the Act to have received a taxable supply of the complex by way of sale, and that supply was the last supply of the complex made by way of sale to the person, and

(*b*) in the case of a person who is a builder of an addition to the complex, the person received an exempt supply of the addition by way of sale, or was deemed under subsection 191(4) of the Act to have received a taxable supply of the addition by way of sale, and that supply was the last supply of the addition made by way of sale to the person,

unless

(*c*) after the complex was last supplied to the person, the person carried on, or engaged another person to carry on for the person, the substantial renovation of the complex, or

(*d*) the person claimed an input tax credit in respect of the last acquisition by the person of the complex or an addition thereto or in respect of the acquisition or importation by the person, after the complex was last acquired by the person, of an improvement to the complex, other than an input tax credit in respect of the construction of an addition to the complex.

5.1 A supply by way of sale of a building, or that part of a building, in which one or more residential units are located, or an interest in such a building or part, where

(*a*) both immediately before and immediately after the earlier of the time ownership of the building, part or interest is transferred to the recipient of the supply (in this section referred to as the "purchaser") and the time possession thereof is transferred to the purchaser under the agreement for the supply, the building or part forms part of a residential complex, and

(*b*) immediately after the earlier of the time ownership of the building, part or interest is transferred to the purchaser and the time possession thereof is transferred to the purchaser under the agreement for the supply, the purchaser is a recipient described in subparagraph 7(*a*)(i) of an exempt supply, described by paragraph 7(*a*), of the land included in the complex.

5.2 A supply by way of sale of land that forms part of a residential complex or an interest in such land where

(*a*) immediately before the earlier of the time ownership thereof is transferred to the recipient of the supply and the time possession thereof is transferred to the recipient of the supply under the agreement for the supply, the land is subject to a lease, licence or similar arrangement by which a supply that is an exempt supply described by paragraph 7(*a*) was made, and

(*b*) if a supply by way of sale were made of the residential complex immediately before that earlier time, the supply would be an exempt supply described in any of sections 2 to 5.

5.3 A supply of a residential trailer park or an interest therein made by a person where

(*a*) the person received an exempt supply, described by this section, of the park or was deemed under subsection 190(4), 200(2), 206(4) or 207(1) of the Act to have received a taxable supply of the land included in the park as a consequence of using the land for purposes of the park, and that supply was the last supply of the park made by way of sale to the person, and

(*b*) if the person increased the area of land included in the park, the person received an exempt supply, described by this section, of the area of land by which the park was increased (in this section referred to as the "additional area") or was deemed under subsection 190(5), 200(2), 206(4) or 207(1) of the Act to have made a taxable supply of the additional area as a consequence of using the additional area for purposes of the park, and that supply was the last supply of the additional area made by way of sale to the person,

unless the person claimed an input tax credit in respect of the last acquisition by the person of the park or an additional area thereto or in respect of the acquisition or importation by the person, after the park was last acquired by the person, of an improvement to the park, other than an input tax credit in respect of an improvement to an additional area that was acquired or imported by the person before the additional area was last acquired by the person.

6. A supply

(*a*) of a residential complex or a residential unit in a residential complex by way of lease, licence or similar arrangement for the purpose of its occupancy as a place of residence or lodging by an individual, where it is occupied by the same individual for a period of at least one month; or

(*b*) of a residential unit by way of lease, licence or similar arrangement for the purpose of its occupancy as a place of residence or lodging by an individual, where the consideration for the supply does not exceed $20 for each day of occupancy.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990 except that section 5.1 of Part I of Schedule V to the said Act, as enacted by subsection (1), does not apply to a supply of real property under which ownership or possession of the real property is transferred to the recipient before March 28, 1991 or to a supply under an agreement in writing entered into before that day.

136. (1) Part I of Schedule V to the said Act is further amended by adding thereto, immediately after section 6.1 thereof, the following section:

6.2 A supply of meals made by a person who is making a supply, described by paragraph 6(*a*), of a residential complex or unit where the meals are provided, to the occupant of the complex or unit, in the complex or unit or in the residential complex in which the unit is located under an arrangement whereby at least ten meals per week are supplied for a single consideration determined before any meal is provided under the arrangement.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

137. (1) Sections 7 and 8 of Part I of Schedule V to the said Act are repealed and the following substituted therefor:

7. A supply

(*a*) of land (other than a site in a residential trailer park) by way of lease, licence or similar arrangement for a period of at least one month, made to

(i) the owner, lessee or person in occupation or possession of a residential unit that is, or is to be, affixed to the land for the purpose of its use and enjoyment as a place of residence for individuals, or

(ii) a person who is acquiring possession of the land for the purpose of constructing a residential complex thereon in the course of a commercial activity,

(*b*) of a site in a residential trailer park by way of lease, licence or similar arrangement for a period of at least one month, made to the owner, lessee or person in occupation or possession of

(i) a mobile home, or

(ii) a travel trailer, motor home or similar vehicle or trailer,

situated or to be situated on the site, or

(*c*) of a lease, licence or similar arrangement referred to in paragraph (*a*) or (*b*) by way of assignment,

but not including any land on which the residential unit, mobile home, vehicle or trailer is or is to be affixed or situated, or any land contiguous thereto, that is not reasonably necessary for the use and enjoyment of the unit, home, vehicle or trailer as a place of residence for individuals.

8. A supply by way of sale of a parking space in a condominium complex made by a supplier to a person where

(*a*) the supplier, at the same time or as part of the same supply, makes a supply, included in any of sections 2 to 4, that is made by way of sale to the person of a residential condominium unit in the condominium complex; and

(*b*) the space was, at any time, supplied to the supplier by way of sale and the supplier did not, after that time, claim an input tax credit in respect of the acquisition or importation of an improvement to the space.

8.1 A supply by way of lease, licence or similar arrangement of a parking space for a period of at least one month, (*a*) made to a person (in this paragraph referred to as an "occupier") who is a lessee or person in occupation or possession of a single unit residential complex, a residential unit in a multiple unit residential complex or a site in a residential trailer park where

(i) the space forms part of the residential complex or residential trailer park, as the case may be, or

(ii) the supplier of the space is an owner or occupier of the single unit residential complex, residential unit or site, as the case may be, and the use of the space is incidental to the use and enjoyment of the complex, unit or site, as the case may be, as a place of residence for individuals;

(*b*) made to the owner, lessee or person in occupation or possession of a residential condominium unit in a condominium complex where the space forms part of the complex; or

(*c*) made by a supplier to the owner, lessee or person in occupation or possession of a floating home where the home is moored to mooring facilities or a wharf under an agreement with the supplier for a supply that is an exempt supply described in section 13.2 and the use of the space is incidental to the use and enjoyment of the home as a place of residence for individuals.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990 except that subparagraph 7(*b*)(ii) of Part I of Schedule V to the said Act, as enacted by subsection (1), does not apply to a supply of a site in a residential trailer park made by way of lease, licence or similar arrangement for any period before November 5, 1991 and where a supply of such a site is for a period (in this subsection referred to as the "lease period") that begins before November 5, 1991 and ends after November 4, 1991, the provision of the site for the part of the lease period that is before November 5, 1991 and the provision of the site for the remainder of the lease period shall each be deemed to be a separate supply.

138. (1) All that portion of section 9 of Part I of Schedule V to the said Act preceding paragraph (*a*) thereof is repealed and the following substituted therefor:

9. A supply of real property made by way of sale by an individual or a trust, all the beneficiaries (other than contingent beneficiaries) of which are individuals and all the contingent beneficiaries of which, if any, are individuals or charities, other than

(2) Subparagraph 9(*b*)(ii) of Part I of Schedule V to the said Act is repealed and the following substituted therefor:

(ii) where the individual or trust has filed an election with the Minister in prescribed form and manner and containing prescribed information, in the course of an adventure or concern in the nature of trade of the individual or trust;

(3) Subsections (1) and (2) shall be deemed to have come into force on December 17, 1990.

139. (1) Section 14 of Part I of Schedule V to the said Act is repealed and the following substituted therefor:

13.1 A supply of property or a service made by a cooperative housing corporation to a person who, because the person is a shareholder of the corporation or a lessee or sub-lessee of a shareholder of the corporation, is entitled to occupy or use a residential unit in a residential complex managed or owned by the corporation, where the supply relates to the occupancy or use of a residential unit in the complex.

13.2 A supply, made to a person who is the owner, lessee or person in occupation or possession of a floating home, of a right to use mooring facilities or a wharf for a period of at least one month in connection with the use and enjoyment of the home as a place of residence for individuals.

14. Subsections 190(4) and (5) and section 191 of the Act shall, for the purposes of applying sections 4, 5, 5.2 and 5.3, be deemed to have been in force at all times.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

140. (1) Paragraph (*c*) of the definition "health care facility" in section 1 of Part II of Schedule V to the said Act is repealed and the following substituted therefor:

(*c*) a facility, or a part thereof, operated for the purpose of providing residents of the facility who have limited physical or mental capacity for self-supervision and self-care with

(i) nursing and personal care under the direction or supervision of qualified medical and nursing care staff or other personal and supervisory care (other than domestic services of an ordinary household nature) according to the individual requirements of the residents,

(ii) assistance with the activities of daily living and social, recreational and other related services to meet the psycho-social needs of the residents, and

(iii) meals and accommodation;

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

141. (1) Section 1 of Part II of Schedule V to the said Act is further amended by adding thereto, in alphabetical order, the following definition:

"homemaker service" means a household or personal service, such as cleaning, laundering, meal preparation and child care, that is rendered to an individual who, due to age, infirmity or disability, requires assistance;

(2) Subsection (1) shall be deemed to have come into force on April 1, 1991.

142. (1) Part II of Schedule V to the said Act is further amended by adding thereto, immediately after section 12 thereof, the following section:

13. A supply of a homemaker service that is rendered to an individual in the individual's place of residence, where the supply is made to any recipient by

(*a*) a government or municipality; or

(*b*) a person who receives an amount in respect of the supply paid by a government, municipality or organization administering a provincial or municipal program in respect of homemaker services.

(2) Subsection (1) applies to supplies no part of the consideration for which became due or was paid before April 1991.

143. (1) The definition "provincial regulatory body" in section 1 of Part III of Schedule V to the said Act is repealed and the following substituted therefor:

"regulatory body" means a body that is constituted or empowered by an Act of Parliament or of the legislature of a province to regulate the practice of a profession or trade by setting standards of knowledge and proficiency for practitioners of the profession of trade;

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

144. (1) Section 6 of Part III of Schedule V to the said Act is repealed and the following substituted therefor:

6. A supply of

(*a*) a service of instructing individuals in courses leading to, or for the purpose of maintaining or upgrading, a professional or trade accreditation or designation recognized by a regulatory body, or

(*b*) a certificate, or a service of administering an examination, in respect of a course, or in respect of an accreditation or designation, described in paragraph (*a*),

where the supply is made by a professional or trade association, government, vocational school, university or public college or by the regulatory body, except where the supplier has made an election under this section in prescribed form containing prescribed information.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990, except that

(*a*) section 6 of Part III of Schedule V to the said Act, as enacted by subsection (1), does not apply to a supply of a certificate issued before November 6, 1991 or to a supply of a service of administering, before November 6, 1991, an examination that is not in respect of a course; and

(*b*) in applying that section to courses commencing before November 6, 1991 or to examinations in respect of such courses, the reference in paragraph (*a*) of that section to "regulatory body" shall be read as a reference to "regulatory body constituted or empowered by an Act of the legislature of a province".

145. (1) Part III of Schedule V to the said Act is further amended by adding thereto, immediately after section 7 thereof, the following section:

7.1 A supply of a service or membership the consideration for which is required to be paid by the recipient of a supply included in section 7 because the recipient receives the supply included in section 7.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

146. (1) Section 8 of Part III of Schedule V to the said Act is repealed and the following substituted therefor:

8. A supply, other than a zero-rated supply, made by a school authority, vocational school, public college or university of a service of instructing individuals in, or administering examinations in respect of, courses leading to certificates, diplomas, licences or similar documents, or classes or ratings in respect of licences, that attest to the competence of individuals to practise or perform a trade or vocation, where

(*a*) the document, class or rating is prescribed by federal or provincial regulation;

(*b*) the supplier is governed by federal or provincial legislation respecting vocational schools; or

(*c*) the supplier is a non-profit organization or a charity.

(2) Subsection (1) applies to supplies no part of the consideration for which became due or was paid before April 1991 except that, with respect to courses commencing, or examinations administered, before November 6, 1991, section 8 of Part III of Schedule V to the said Act, as enacted by subsection (1), shall be read without reference to the words "other than a zero-rated supply".

147. (1) Sections 9 and 10 of Part III of Schedule V to the said Act are repealed and the following substituted therefor:

9. A supply of a service of tutoring or instructing an individual in

(*a*) a course that is approved for credit by, or follows a curriculum designated by, a school authority;

(*b*) a course that is a prescribed equivalent of a course described in paragraph (*a*); or

(*c*) a course the successful completion of which is mandatory for admittance into a particular course described in paragraph (*a*) or (*b*) and not for admittance into any other course that is a prerequisite to the particular course.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

148. (1) Section 16 of Part III of Schedule V to the said Act is repealed and the following substituted therefor:

16. A supply made by a school authority, public college or university of a service of instructing individuals in, or administering examinations in respect of, courses (other than courses in sports, games, hobbies or other recreational pursuits that are designed to be taken primarily for recreational purposes) that are part of a program that consists of two or more courses and that is subject to the review of, and is approved by, a council, board or committee of the school authority, college or university established to review and approve the course offerings of the school authority, college or university.

(2) Subsection (1) applies to supplies no part of the consideration for which became due or was paid before April 1991.

149. (1) Section 2 of Part IV of Schedule V to the said Act is repealed and the following substituted therefor:

2. A supply of a service of providing care, supervision and a place of residence to children or disabled or underprivileged individuals in an establishment operated by the supplier for the purpose of providing such service.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

150. (1) The definition "homemaker service" in section 1 of Part VI of Schedule V to the said Act is repealed.

(2) Subsection (1) shall be deemed to have come into force on April 1, 1991.

151. (1) Section 1 of Part VI of Schedule V to the said Act is further amended by adding thereto, in alphabetical order, the following definitions:

"designated activity" of an organization means an activity in respect of which the organization is designated under section 259 of the Act or under section 22 or 23;

"local municipality" of a regional municipality means a municipality that has jurisdiction over an area that is within the area over which the regional municipality has jurisdiction;

"municipal body" means a municipality or a provincially-established designated body;

"para-municipal organization" of a municipal body means an organization (other than a government) that is owned or controlled by the municipal body and that

(*a*) where the municipal body is a municipality,

(i) is designated under section 259 of the Act, or under section 22 or 23, to be a municipality for the purposes of that section, or

(ii) is established by the municipal body and determined, under paragraph (*b*) of the definition "municipality" in subsection 123(1) of the Act, to be a municipality for the purposes of Part IX of the Act, or

(*b*) where the municipal body is a provincially-established designated body, is determined, under that paragraph, to be a municipality for the purposes of that Part,

and for the purposes of this definition, an organization is owned or controlled by a municipal body if

(*c*) all or substantially all of the shares of the organization are owned by the municipal body or all or substantially all of the assets held by the organization are owned by the municipal body or are assets the disposition of which is controlled by the municipal body so that, in the event of a winding-up or liquidation of the organization, those assets are vested in the municipal body, or (*d*) the organization is required to submit to the municipal body the periodic operating and, where applicable, capital budget of the organization for approval and a majority of the members of the governing body of the organization are appointed by the municipal body;

"provincially-established designated body" means a body that is established by Her Majesty in right of a province and designated, under section 259 of the Act, to be a municipality for the purposes of that section;

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

152. (1) Paragraph 2(*a*) of Part VI of Schedule V to the said Act is repealed and the following substituted therefor:

(*a*) property or a service included in Schedule VI;

(2) All that portion of paragraph 2(*h*) of Part VI of Schedule V to the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

(*h*) a membership where the membership

(3) Paragraph 2(*m*) of Part VI of Schedule V to the said Act is repealed and the following substituted therefor:

(*m*) an admission in respect of

(i) a place of amusement,

(ii) a seminar, conference or similar event where the supply is made by a university or public college, or

(iii) any fund-raising event held after April 1991.

(4) Subsections (2) and (3) shall be deemed to have come into force on December 17, 1990.

153. (1) Paragraph 3(*e*) of Part VI of Schedule V to the said Act is repealed and the following substituted therefor:

(*e*) an admission in respect of a place of amusement at which the principal activity is the placing of bets or the playing of games of chance, or

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

154. (1) Section 5.1 of Part VI of Schedule V to the said Act is repealed and the following substituted therefor:

5.1 A supply made by a charity or non-profit organization (other than a prescribed person) of a right, other than an admission, to play or participate in a game of chance (other than a prescribed game of chance).

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

155. (1) Section 6 of Part VI of Schedule V to the said Act is amended by striking out the word "or" at the end of paragraph (*a*) thereof and by repealing paragraph (*b*) thereof and substituting the following:

(*b*) tangible personal property, other than capital property of the body, made by way of sale, or

(*c*) tangible personal property made by way of lease, licence or similar arrangement under an agreement in writing entered into before March 28, 1991,

(2) Subsection (1) applies to supplies of property delivered to the recipient after March 27, 1991 and to supplies no part of the consideration for which becomes due or is paid on or before that date.

156. (1) Section 14 of Part VI of Schedule V to the French version of the said Act is repealed and the following substituted therefor:

14. La fourniture par un organisme du secteur public d'aliments, de boissons ou d'un logement provisoire dans le cadre d'une activité dont l'objet consiste à alléger la pauvreté, la souffrance ou la détresse de particuliers et non à lever des fonds.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

157. (1) Section 16 of Part VI of Schedule V to the said Act is repealed.

(2) Subsection (1) applies to supplies no part of the consideration for which became due or was paid before April 1991.

158. (1) All that portion of section 17 of Part VI of Schedule V to the said Act following paragraph (*f*) thereof is repealed and the following substituted therefor:

except where the body has made an election under this section in prescribed form containing prescribed information.

(2) Subsection (1) shall be deemed to have come into force on April 27, 1992.

159. (1) Section 18 of Part VI of Schedule V to the said Act is repealed and the following substituted therefor:

18. A supply of a membership made by an organization membership in which is required to maintain a professional status recognized by statute, except where the supplier has made an election under this section in prescribed form containing prescribed information.

(2) Subsection (1) shall be deemed to have come into force on April 27, 1992.

160. (1) Paragraph 20(*c*) of Part VI of Schedule V to the said Act is repealed and the following substituted therefor:

(*b.1*) a supply of a service of the filing of a document in accordance with legislative requirements,

(*c*) a supply of a licence, permit, quota or similar right (other than such a right supplied in respect of the importation of alcoholic beverages), and the supply of any service in respect of an application for such a right,

(2) Paragraph 20(*f*) of Part VI of Schedule V to the said Act is repealed and the following substituted therefor:

(*f*) a supply of a service of providing information under the *Privacy Act*, the *Access to Information Act* or any similar provincial legislation,

(3) Paragraph 20(*k*) of Part VI of Schedule V to the said Act is repealed and the following substituted therefor:

(*k*) a supply of a right to take or remove forestry products, fishery products, products that grow in water, minerals or peat, where the supply is made to

(i) a consumer, or

(ii) a person who is not a registrant and who acquires the right in the course of a business of the person of making supplies of the products, minerals or peat to consumers, or

(4) Subsections (1) and (3) shall be deemed to have come into force on December 17, 1990.

161. (1) Section 22 of Part VI of Schedule V to the said Act is repealed and the following substituted therefor:

22. A supply of a service, made by a municipality or by an organization that operates a water distribution, sewerage or drainage system and that is designated by the Minister to be a municipality for the purposes of this section, of installing, repairing or maintaining a water distribution, sewerage or drainage system that is for the use of all occupants and owners of real property situated in a particular geographic area, other than a supply for which a separate charge is made to the recipient of the supply, of a service of repairing or maintaining a part of the system where the recipient is the owner or occupant of a particular parcel of real property situated in the particular geographic area and the part of the system is for the exclusive use of occupants and owners of the particular parcel.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990 except that with respect to supplies made on or before ANNOUNCEMENT DATE, section 22 of Part VI of Schedule V to the said Act, as enacted by subsection (1), shall be read without reference to the words "that operates a water distribution, sewerage or drainage system and that is".

162. (1) Section 23 of Part VI of Schedule V to the said Act is repealed and the following substituted therefor:

23. A supply of unbottled water (other than a zero-rated supply and a supply of water dispensed in single servings to consumers through a vending machine or at a permanent establishment of the supplier), including the service of delivering the water, when made by a person other than a government or by a government designated by the Minister to be a municipality for the purposes of this section.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990 except that, in respect of supplies all or part of the consideration for which becomes due or is paid before March 11, 1992, section 23 of Part VI of Schedule V to the said Act, as enacted by subsection (1), shall be read as follows:

23. A supply of unbottled water (other than a zero-rated supply and a supply of water dispensed in single servings to consumers through a vending machine or at a permanent establishment of the supplier), including the service of delivering the water, made by a municipality or an organization designated by the Minister to be a municipality for the purposes of this section.

(3) Where, before the enactment of this section, an organization has been designated by the Minister to be a municipality for the purposes of section 22 of Part VI of Schedule V to the said Act, and that designation has not been revoked, the organization shall be deemed to have also been designated for the purposes of section 23 of that Part, as enacted by subsection (1).

163. (1) All that portion of paragraph 25(*c*) of Part VI of Schedule V to the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

(*c*) real property made by way of sale to an individual or a trust all the beneficiaries of which (other than contingent beneficiaries) are individuals, and all the contingent beneficiaries of which, if any, are individuals or charities, other than a supply of real property on which is situated a structure that was used by the body

(2) Paragraph 25(*f*) of Part VI of Schedule V to the said Act is repealed and the following substituted therefor:

(*f*) real property (other than short-term accommodation) made by way of

(i) lease, where the term of the lease is less than a month, or

(ii) a licence,

where the supply is made in the course of a business carried on by the body;

(3) Subsection (1) applies to any supply of real property, other than a supply under which ownership or possession of the property is transferred to the recipient before March 28, 1991 or a supply made under an agreement in writing entered into before that day.

(4) Subsection (2) applies to supplies the agreement for which is entered into after September 14, 1992.

164. (1) Part VI of Schedule V to the said Act is further amended by adding thereto the following sections:

27. A supply of a poppy or wreath made by

(*a*) the Minister of Veterans Affairs in the course of operating a sheltered employment workshop; or

(*b*) the Dominion Command, any provincial command or any branch, of the Royal Canadian Legion.

28. A supply between

(*a*) a municipal body and any of its para-municipal organizations,

(*b*) a para-municipal organization of a municipal body and any other para-municipal organization of the municipal body,

(*c*) a regional municipality and any of its local municipalities or any para-municipal organization of any of those local municipalities,

(*d*) a para-municipal organization of a regional municipality and any local municipality of the regional municipality or any para-municipal organization of the local municipality, or (*e*) a regional municipality or any of its para-municipal organizations and any other organization (other than a government) the designated activities of which include the provision of water or municipal services within an area over which the regional municipality has jurisdiction,

but not including any supply made or received by

(*f*) a provincially-established designated body,

(*g*) a para-municipal organization designated under section 259 of the Act or section 22 or 23, or

(*h*) another organization referred to in paragraph (*e*),

otherwise than in the course of the designated activities of the body or organization, as the case may be.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

165. (1) Section 1 of Part VIII of Schedule V to the said Act is repealed and the following substituted therefor:

1. A supply, other than a zero-rated supply, of a service of ferrying by watercraft passengers or property where the principal purpose of the ferrying is to transport motor vehicles and passengers between parts of a road or highway system that are separated by a stretch of water.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

166. (1) The heading of Part I of Schedule VI to the said Act is repealed and the following substituted therefor:

(2) Subsection (1) shall be deemed to have come into force on April 1, 1991.

PRESCRIPTION DRUGS AND BIOLOGICALS

167. (1) Paragraphs 2(*a*) and (*b*) of Part I of Schedule VI to the said Act are repealed and the following substituted therefor:

(*a*) a drug included in Schedule C or D to the *Food and Drugs Act*,

(*b*) a drug included in Schedule F to the *Food and Drug Regulations*, other than a drug or mixture of drugs that may, pursuant to the *Food and Drugs Act* or those Regulations, be sold to a consumer without a prescription,

(2) Section 2 of Part I of Schedule VI to the said Act is further amended by striking out the word "and" at the end of paragraph (*d*) thereof, by adding the word "and" at the end of paragraph (*e*) thereof, and by adding thereto, immediately after paragraph (*e*) thereof, the following paragraph:

(*f*) a drug the supply of which is authorized under the *Food and Drug Regulations* for use in an emergency treatment,

(3) Subsection (1) applies to drugs imported after March 1991 and to supplies in Canada no part of the consideration for which became due, or was paid, before April 1991.

(4) Subsection (2) applies to drugs imported after ANNOUNCEMENT DATE and to supplies in Canada of drugs delivered to the recipient after ANNOUNCEMENT DATE.

168. (1) Part I of Schedule VI to the said Act is further amended by adding thereto the following section:

5. A supply of human sperm.

(2) Subsection (1) applies to human sperm imported after April 1991 and to supplies in Canada no part of the consideration for which became due, or was paid, before April 1991.

169. (1) Part II of Schedule VI to the said Act is amended by adding thereto, immediately after section 5 thereof, the following section:

5.1 A supply of an aerosol chamber or a metered dose inhaler for use in the treatment of asthma when the supply is made to a consumer on the written order of a practitioner.

(2) Subsection (1) applies to property imported after November 5, 1991 and to any supply in Canada other than

(*a*) a supply no part of the consideration for which becomes due after November 5, 1991 or is paid after that day without having become due; and

(*b*) a supply of property under which ownership or possession of the property is transferred to the recipient before October 1991.

170. (1) Part II of Schedule VI to the said Act is further amended by adding thereto, immediately after section 21 thereof, the following sections:

21.1 A supply of an extremity pump, intermittent pressure pump or similar device for use in the treatment of lymphedema when the supply is made to a consumer on the written order of a practitioner.

21.2 A supply of a catheter for sub-cutaneous injections or a lancet when the supply is made to a consumer on the written order of a practitioner.

(2) Subsection (1) applies to property imported after November 5, 1991 and to any supply in Canada other than

(*a*) a supply no part of the consideration for which becomes due after November 5, 1991 or is paid after that day without having become due; and

(*b*) a supply of property under which ownership or possession of the property is transferred to the recipient before October 1991.

171. (1) Part II of Schedule VI to the said Act is further amended by adding thereto, immediately after section 23 thereof, the following section:

23.1 A supply of an orthotic device when the supply is made to a consumer on the written order of a practitioner.

(2) Subsection (1) applies to property imported after November 5, 1991 and to any supply in Canada other than

(*a*) a supply no part of the consideration for which becomes due after November 5, 1991 or is paid after that day without having become due; and

(*b*) a supply of property under which ownership or possession of the property is transferred to the recipient before October 1991.

172. (1) Part II of Schedule VI to the said Act is further amended by adding thereto, immediately after section 33 thereof, the following section:

33.1 A supply of

(*a*) a dog that is, or is to be, trained to assist an individual with a hearing impairment in respect of problems arising from the impairment, or

(*b*) a service of training the individual to use the dog,

where the supply is made to or by an organization that is operated for the purpose of supplying such dogs to individuals with hearing impairments.

(2) Subsection (1) applies to property imported after November 5, 1991 and to any supply in Canada other than

(*a*) a supply no part of the consideration for which becomes due after November 5, 1991 or is paid after that day without become due; and

(*b*) a supply of property under which ownership or possession of the property is transferred to the recipient before October 1991.

173. (1) Section 34 of Part II of Schedule VI to the said Act is repealed and the following substituted therefor:

34. A supply of a service (other than a service the supply of which is included in Part II of Schedule V or a service related to the provision of a surgical or dental service that is performed for cosmetic purposes and not for medical or reconstructive purposes) of installing, maintaining, restoring, repairing or modifying a property described in any of sections 2 to 32 of this Part, or any part for such a property where the part is supplied in conjunction with the service.

(2) Subsection (1) applies to supplies made after September 14, 1992.

174. (1) Part II of Schedule VI to the said Act is further amended by adding thereto, immediately after section 34 thereof, the following sections:

35. A supply of a graduated compression stocking, anti-embolic stocking or similar article when the supply is made to a consumer on the written order of a practitioner.

36. A supply of clothing specially designed for use by a disabled individual when the supply is made to a consumer on the written order of a practitioner.

(2) Subsection (1) applies to property imported after November 5, 1991 and to any supply in Canada other than

(*a*) a supply no part of the consideration for which becomes due after November 5, 1991 or is paid after that day without having become due; and

(*b*) a supply of property under which ownership or possession of the property is transferred to the recipient before October 1991.

175. (1) Paragraph 1(*n*) of Part III of Schedule VI to the said Act is repealed and the following substituted therefor:

(*n*) beverages (other than unflavoured milk) or pudding, including flavoured gelatine, mousse, flavoured whipped dessert product or any other products similar to pudding, except

(i) when prepared and prepackaged specially for consumption by babies,

(ii) when sold in multiples, prepackaged by the manufacturer or producer, of single servings, or

(iii) when the cans, bottles or other primary containers in which the beverages or products are sold contain a quantity exceeding a single serving;

(2) Section 1 of Part III of Schedule VI to the said Act is further amended by striking out the word "and" at the end of paragraph (*p*) thereof, by adding the word "and" at the end of paragraph (*q*) thereof, and by adding thereto the following paragraph:

(*r*) unbottled water, other than ice.

(3) Subsection (1) shall be deemed to have come into force on December 17, 1990 except that in applying paragraph 1(*n*) of Part III of Schedule VI to the said Act, as enacted by subsection (1), 10270

(*a*) to any supply in respect of which tax would have become payable before March 28, 1991 if subsection (1) were not enacted, 10275

(*b*) to any supply in respect of which an amount was paid before that date as tax, or

(*c*) to any property imported before that date,

that paragraph shall be read as follows:

(*n*) yoghurt, puddings or beverages (other than unflavoured milk), except 10280

(i) when prepared and prepackaged specially for consumption by babies,

(ii) when sold in multiples, prepackaged by the manufacturer or producer, of single servings, or 10285

(iii) when the cans, bottles or other primary containers in which the yoghurt, pudding or beverages are sold contain a quantity exceeding a single serving;

(4) Subsection (2) applies to supplies no part of the consideration for which was paid or became due before May 1991. 10290

176. (1) Part III of Schedule VI to the said Act is further amended by adding thereto the following section:

2. A supply of unbottled water for human consumption made to a consumer when the water is dispensed to the consumer in a quantity exceeding a single serving through a vending machine or at a permanent establishment of the supplier. 10295

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

177. (1) Part IV of Schedule VI to the said Act is amended by adding thereto, immediately after section 2 thereof, the following section:

2.1 A supply of feed, made by the operator of a feedlot, that is deemed to be a separate supply under paragraph 164.1(2)(*a*) of the Act.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

178. (1) Section 5 of Part IV of Schedule VI to the said Act is repealed and the following substituted therefor:

5. A supply of fertilizer made at any time to a recipient when the fertilizer is supplied

(*a*) in bulk, or

(*b*) in a container containing at least 25 kg of fertilizer,

where the total quantity of fertilizer supplied at that time to the recipient is at least 500 kg.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990, except that

(*a*) in applying section 5 of Part IV of Schedule VI to the said Act, as enacted by subsection (1), to supplies of fertilizer delivered before March 11, 1992, that section shall be read without reference to the word "or" in paragraph (*a*) thereof and without reference to paragraph (*b*) thereof; and

(*b*) in applying that section to supplies of fertilizer delivered after March 10, 1992 but before THE DAY IMMEDIATELY FOLLOWING ANNOUNCEMENT DATE, the reference to "container" in paragraph (*b*) thereof shall be read as a reference to "bag".

179. (1) Section 1 of Part V of Schedule VI to the said Act is amended by adding the word "and" at the end of paragraph (*c*) thereof, by repealing paragraphs (*d*) and (*e*) thereof and by substituting the following therefor:

(*d*) the person maintains evidence satisfactory to the Minister of the exportation of the property by the recipient or, where the recipient is authorized under subsection 221.1(2) of the Act, the recipient provides the person with a certificate in which the recipient certifies that the property will be exported in the circumstances described in paragraphs (*a*) to (*c*).

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

180. (1) Part V of Schedule VI to the said Act is further amended by adding thereto, immediately after section 2 thereof, the following section:

2.1 A supply of fuel made to a person who is registered under Subdivision d of Division V of Part IX of the Act at the time the supply is made, where

(*a*) the person carries on the business of transporting passengers or property to or from Canada by ship, aircraft or railway; and

(*b*) the fuel is acquired by the person for use in the course of so transporting passengers or property.

(2) Subsection (1) applies to supplies of fuel delivered to recipients after November 5, 1991.

181. (1) Section 6 of Part V of Schedule VI to the French version of the said Act is repealed and the following substituted therefor:

6. La fourniture, effectuée par une personne au profit d'un acquéreur non résidant, d'un service de réparation d'urgence et, le cas échéant, d'un bien fourni avec ce service, relativement à un moyen de transport ou à un conteneur que la personne utilise dans une entreprise de transport de passagers ou de produits.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

182. (1) Section 7 of Part V of Schedule VI to the said Act is repealed and the following substituted therefor:

7. A supply of a service made to a non-resident person, other than an individual, or to a non-resident individual who is outside Canada at all times at which the individual has contact with the supplier in relation to the supply, but not including a supply of

(*a*) a service that is primarily for consumption, use or enjoyment in Canada;

(*b*) an advisory, consulting or professional service;

(*c*) a postal service;

(*d*) a service in respect of real property situated in Canada;

(*e*) a service in respect of tangible personal property that is situated in Canada at the time the service is performed;

(*f*) a service of acting as an agent of the non-resident person or individual; or

(*g*) a transportation service.

(2) Subsection (1) applies to supplies of services the performance of which begins on or after the day this Act is assented to.

183. (1) Section 13 of Part V of Schedule VI to the said Act is repealed and the following substituted therefor:

13. A supply made to a non-resident person who is not registered under Subdivision d of Division V of Part IX of the Act of

(*a*) tangible personal property, or a service performed in respect of tangible personal property, where the property or service is acquired by the person for the purpose of fulfilling an obligation of the person under a warranty; or

(*b*) tangible personal property, where the supply is deemed under section 179 of the Act to have been made as a consequence of a transfer of possession of the property in the performance of an obligation of the person under a warranty.

14. (1) In this section,

"die" means a solid or hollow form used for shaping materials by stamping, pressing, extruding, drawing or threading;

"fixture" means a device for holding goods in process while working tools are in operation but which does not contain any special arrangement for guiding the working tools;

"jig" means a device used in the accurate machining of goods in process by holding the goods firmly and guiding tools exactly to position;

"mould" means a hollow form, matrix or cavity, into which materials are placed to produce goods of desired shapes; and

"tool" means a device for use in, or attachment to, production machinery that is for the assembling of materials or the working of materials by turning, milling, grinding, polishing, drilling, punching, boring, shaping, shearing, pressing or planing.

(2) A supply of property that is a jig, die, mould, tool or fixture, or an interest therein, made to a non-resident person who is not registered under Subdivision d of Division V of Part IX of the Act at the time the supply is made, where the property is to be used directly in the manufacture or production of tangible personal property for the non-resident person.

15. A supply of natural gas made by a person to a recipient who intends to export the gas by pipeline where

(*a*) the recipient exports the gas as soon after it is delivered by the person to the recipient as is reasonable having regard to the circumstances surrounding the exportation and, where applicable, to the normal business practice of the recipient;

(*b*) the gas is not acquired by the recipient for consumption, use or supply in Canada, except to the extent that it is used by a carrier as fuel or compressor gas to transport the gas by pipeline, before the exportation of the gas by the recipient;

(*c*) after the supply is made and before the recipient exports the gas, the gas is not further processed, transformed or altered in Canada except to the extent reasonably necessary or incidental to its transportation; and (*d*) the person maintains evidence satisfactory to the Minister of the exportation of the gas by the recipient.

16. A supply of tangible personal property made by way of sale to a person operating a duty free shop licensed as such under the *Customs Act* where the person acquires the property as inventory for supply by way of sale at the shop to an individual for export by the individual and the person provides the supplier with the licence number of the shop.

17. A supply made to a non-resident person of a custodial or nominee service in respect of securities of the person.

18. A supply made to a non-resident person, other than an individual, who is not registered under Subdivision d of Division V of Part IX of the Act of a service of instructing non-resident individuals in, or administering examinations in respect of, courses leading to certificates, diplomas, licences or similar documents, or classes or ratings in respect of licences, that attest to the competence of the individuals to whom the service is rendered or examination is administered to practise or perform a trade or vocation.

19. A supply made to a non-resident person who is not registered under Subdivision d of Division V of Part IX of the Act of a service of destroying or discarding tangible personal property.

20. A supply made to a non-resident person who is not registered under Subdivision d of Division V of Part IX of the Act of a service of dismantling property for the purpose of exporting the property.

21. A supply made to a non-resident person who is not registered under Subdivision d of Division V of Part IX of the Act of a service of testing or inspecting tangible personal property that is imported or acquired in Canada for the sole purpose of having the service performed and that is to be destroyed or discarded in the course of providing, or upon completion of, the service.

22. A supply of a service in respect of a telecommunication or postal service where the supply is made, by a registrant who carries on the business of supplying telecommunication or postal services, to a non-resident person who is not a registrant and who carries on such a business.

23. A supply of an advisory, professional or consulting service made to a non-resident person, but not including a supply of

(*a*) a service rendered in connection with criminal, civil or administrative litigation in Canada other than a service rendered before the commencement of such litigation;

(*b*) a service in respect of real property situated in Canada;

(*c*) a service in respect of tangible personal property that is situated in Canada at the time the service is performed; or

(*d*) a service of acting as an agent of the person.

24. For the purposes of this Part,

(*a*) a floating home, and

(*b*) a mobile home that is not affixed to land

shall each be deemed to be tangible personal property and not real property.

(2) Sections 13 to 15, 17 and 24 of Part V of Schedule VI to the said Act, as enacted by subsection (1), shall be deemed to have come into force on December 17, 1990.

(3) Section 16 of Part V of Schedule VI to the said Act, as enacted by subsection (1), applies to supplies of property delivered to the recipient after March 1991.

(4) Section 18 of Part V of Schedule VI to the said Act, as enacted by subsection (1), applies to courses commencing, and examinations administered, after November 5, 1991.

(5) Sections 19, 20 and 21 of Part V of Schedule VI to the said Act, as enacted by subsection (1), apply to supplies all or part of the consideration for which becomes due after November 5, 1991 or is paid after that day without having become due.

(6) Sections 22 and 23 of Part V of Schedule VI to the said Act, as enacted by subsection (1), apply to supplies of services the performance of which begins on or after the day this Act is assented to.

184. (1) The definition "carrier" in subsection 1(1) of Part VII of Schedule VI to the said Act is repealed.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

185. (1) Part VII of Schedule VI to the said Act is further amended by adding thereto the following sections:

13. A supply by a licensee under paragraph 24(1)(*a*) of the *Customs Act* of a service of warehousing imported goods at a highway sufferance warehouse operated by the licensee, where the purpose of the service is to enable examination of the goods before their release.

14. A supply of a service of ferrying by watercraft passengers or property to or from a place outside Canada, where the principal purpose of the ferrying is to transport motor vehicles and passengers between parts of a road or highway system that are separated by a stretch of water.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

186. (1) Paragraph 1(*e*) of Part IX of Schedule VI to the said Act is repealed and the following substituted therefor:

(*e*) a financial instrument (other than an insurance policy or a precious metal) acquired, otherwise than directly from a non-resident issuer, by the financial institution acting as a principal.

(2) Subsection (1) applies to financial services supplied after November 5, 1991.

187. (1) Section 1 of Schedule VII to the said Act is repealed and the following substituted therefor:

1. Goods that are classified under heading No. 98.01, 98.02, 98.03, 98.04, 98.05, 98.06, 98.07, 98.10, 98.11, 98.12, 98.15, 98.16, 98.19 or 98.21 of Schedule I to the *Customs Tariff*, to the extent that the goods are not subject to duty under that Act, but not including goods that are classified under tariff item 9804.30.00 of that Schedule.

(2) Subsection (1) shall be deemed to have come into force on January 1, 1991.

188. (1) Schedule VII to the said Act is further amended by adding thereto, immediately after section 7 thereof, the following section:

7.1 Goods that are prescribed property for the purposes of section 143.1 of the Act and that are sent, by mail or courier, to the recipient of the supply of the goods at an address in Canada, where the supplier is registered under Subdivision d of Division V of Part IX of the Act at the time the goods are imported.

(2) Subsection (1) applies to goods imported after 1992.

189. (1) Section 8 of Schedule VII to the said Act is repealed and the following substituted therefor:

8. Prescribed goods imported in prescribed circumstances and under prescribed terms and conditions.

9. Containers that, because of regulations made under Note 11(c) to Chapter 98 of Schedule I to the *Customs Tariff*, may be imported free of customs duties.

10. Money or certificates or other documents evidencing a right that is a financial instrument.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

190. (1) The said Act is amended in the manner and to the extent set out in Schedule I.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

191. (1) The French version of the said Act is amended in the manner and to the extent set out in Schedule II.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

Damage appraisals by professionals

192. For the purposes of Part IX of the said Act, where, in the course of a professional practice, an accountant, an actuary, a lawyer or a notary has supplied, on or before ANNOUNCEMENT DATE, a service described in paragraph (*j.1*) of the definition "financial service" in subsection 123(1) of that Act, as enacted by subsection 9(6),

(*a*) tax under that Part shall be deemed not to have been payable in respect of the supply; and

(*b*) where no amount was, before that day, charged or collected by the supplier as or on account of tax under that Part in respect of the supply, the supply shall be deemed to be an exempt supply.

Waiver of penalty and interest

193. Where

(*a*) a person is deemed under subsection 150(7) of the said Act, as enacted by subsection 24(2), to have made an election under subsection 150(1) of the said Act, and

(*b*) the amount of the person's net tax under Part IX of the said Act for a reporting period that ended before November 5, 1991 exceeds the amount that would be the person's net tax for the reporting period if the person were not deemed to have made an election under subsection 150(1) of the said Act,

the Minister of National Revenue may waive or cancel all or part of any penalty or interest under Part IX of the said Act payable by the person on the amount of that excess in respect of the period commencing on the day that the penalty and interest begins to accrue and ending on the day on or before which the person is required to file a return under Part IX of the said Act for the reporting period of the person that includes November 5, 1991.

Related corporations

194. Where, on a particular day that is before the DAY IMMEDIATELY FOLLOWING ANNOUNCEMENT DATE, tax under Division II or IV of Part IX of the said Act becomes

payable, or is paid without having become payable, by a person in respect of property or a service to which section 186 of the said Act, as amended by section 48, applies, the tax shall, for the purposes of determining an input tax credit of the person under that Part, be deemed to have become payable by the person on, and not to have been paid before,

(*a*) where the fiscal year of the person that includes the particular day ends on or before ANNOUNCEMENT DATE, the last day of that year; and

(*b*) in any other case, the last day of the reporting period of the person that includes ANNOUNCEMENT DATE.

Revocation of election for quick method

195. Where, with the return of a registrant for the last reporting period of the registrant in the first fiscal year of the registrant that ended in 1991, the registrant has filed under paragraph 227(3)(*b*) of the said Act a notice of revocation of an election to determine the net tax of the registrant in accordance with Part IV of the *Streamlined Accounting (GST) Regulations* and the election was effective on January 1, 1991, the revocation is valid and effective notwithstanding subsection 227(4) of that Act.

Transitional instalment base

196. Every person having an instalment base determined under subsection 237(5) of the said Act shall, before the day that is 90 days after the day this Act is assented to, specify that instalment base in a form authorized by the Minister of National Revenue containing information specified by the Minister and filed in a manner authorized by the Minister.

Retroactive coming into force

197. Where any provision of this Act that amends or enacts a provision of Part IX of the said Act, or any provision of that Part as amended or enacted by a provision of this Act, is deemed under this Act to have come into force on December 17, 1990, that provision of the *Excise Tax Act* as amended or enacted by this Act shall apply as if it had been enacted by subsection 12(1) of *An Act to amend the Excise Tax Act, the Criminal Code, the Customs Act, the Customs Tariff, the Excise Act, the Income Tax Act, the Statistics Act and the Tax Court of Canada Act*, being chapter 45 of the Statutes of Canada, 1990.

PART II

ACCESS TO INFORMATION ACT

198. (1) Schedule II to the *Access to Information Act* is amended by adding thereto, in alphabetical order, a reference to

"Excise Tax Act"
« Loi sur la taxe d'accise »

and a corresponding reference to section 295.

(2) Subsection (1) shall be deemed to have come into force on December 17, 1990.

PART III

CANADA PENSION PLAN

199. Section 28 of the *Canada Pension Plan* is amended by adding thereto, immediately after subsection (1) thereof, the following subsection:

Communication of determination or decision

(1.1) For the purpose of subsection (1), the determination of the time at which a decision on an appeal to, or a determination by, the Minister under section 27, is communicated to an employee or employer shall be made in accordance with the rule, if any, made under paragraph 20(1.1)(*h*.1) of the *Tax Court of Canada Act*.

PART IV

CUSTOMS ACT

200. (1) The definition "duties" in subsection 2(1) of the *Customs Act* is repealed and the following substituted therefor:

"duties"
« droits »

"duties" means any duties or taxes levied on imported goods under the *Customs Tariff*, the *Excise Tax Act*, the *Excise Act*, the *Special Import Measures Act*, or any other law relating to customs, but, for the purposes of subsection 3(1), paragraphs 58(2)(*b*), 62(1)(*b*) and 65(1)(*b*), sections 69 and 73, and subsections 74(1), 75(2), 76(1) and

82(1), does not include taxes levied under Part IX of the *Excise Tax Act*;

(2) Subsection (1) shall be deemed to have come into force on January 1, 1991.

PART V

FEDERAL COURT ACT

201. All that portion of subsection 27(1.1) of the *Federal Court Act* following paragraph (*c*) thereof is repealed and the following substituted therefor:

of the Tax Court of Canada, other than one in respect of which section 18, 18.29, 18.3 or 18.3001 of the *Tax Court of Canada Act* applies.

PART VI

INCOME TAX ACT

202. Subsection 171(4) of the *Income Tax Act* is repealed.

PART VII

TAX COURT OF CANADA ACT

203. Subsection 12(4) of the *Tax Court of Canada Act* is repealed and the following substituted therefor:

Extension of time

(4) The Court has exclusive original jurisdiction to hear and determine applications to extend the time to object or appeal pursuant to section 166.2 or 167 of the *Income Tax Act* or section 304 or 305 of the *Excise Tax Act*.

204. (1) Subsection 17.3(1) of the said Act is repealed and the following substituted therefor:

Examinations for discovery

17.3 (1) Where the aggregate of all amounts in issue in an appeal under the *Income Tax Act* is $25,000 or less, or where the amount of the loss that is determined under subsection 152(1.1) of that Act and that is in issue is $50,000 or less, an oral examination for discovery shall not be held unless the parties consent thereto or unless one of the parties applies therefor and the Court is of the opinion that the case could not properly be conducted without that examination for discovery.

(2) Subsection (1) applies with respect to appeals for which a notice of appeal has been filed after the day on which this Act is assented to.

205. (1) Subparagraph 18.11(2)(*a*)(ii) of the said Act is repealed and the following substituted therefor:

(ii) any other assessment or proposed assessment of the appellant, whether or not that assessment or proposed assessment relates to the same taxation year; and

(2) Subparagraph 18.11(2)(*b*)(iii) of the said Act is repealed and the following substituted therefor:

(iii) likely to be affected in the other assessment or proposed assessment referred to in subparagraph (*a*)(ii),

206. (1) Subsection 18.16(1) of the said Act is repealed and the following substituted therefor:

Time limit for reply to notice of appeal

18.16 (1) The Minister of National Revenue shall file a reply to a notice of appeal within sixty days after the day on which the Registry of the Court transmits to that Minister the notice of appeal unless the appellant consents, before or after the expiration of the sixty day period, to the filing of that reply after the sixty day period or the Court allows the Minister, on application made before or after the expiration of the sixty day period, to file the reply after that period.

(2) Subsections 18.16(3) and (4) of the said Act are repealed and the following substituted therefor:

Time after refusal

(3) Where the Court dismisses an application referred to in subsection (2), the Minister of National Revenue shall file a reply to a notice of appeal on or before the later of

(*a*) a day that is sixty days after the day on which the Registry of the Court transmits to that Minister the notice of appeal, and

(*b*) a day that is thirty days from the date the written judgment dismissing the application is received by the Minister from the Registry of the Court,

unless the appellant consents, before or after the time referred to in paragraph (*a*) or (*b*), to the filing of the reply at a later date or the Court allows the Minister, on application made before or after the time referred to in paragraph (*a*) or (*b*), to file the reply after that time.

Where reply not filed in time

(4) The Minister of National Revenue may file a reply to a notice of appeal after the period of time limited under subsection (1) or (3), as the case may be, and where that Minister does file the reply after that time or after the extension of time consented by the appellant or granted by the Court, the allegations of fact contained in the notice of appeal are presumed to be true for the purposes of the appeal.

207. Subsection 18.17(1) of the said Act is repealed and the following substituted therefor:

Time for hearing

18.17 (1) Subject to subsection (1.1), the Court shall fix a date for the hearing of an appeal referred to in section 18 that is no later than one hundred and eighty days or, where the Court is of the opinion that it would be impracticable in all the circumstances to fix a date for the hearing of the appeal within that time period, three hundred and sixty-five days after the last day on which the Minister of National Revenue must file a reply to the notice of appeal pursuant to subsection 18.16(1) or (3).

Exceptional circumstances

(1.1) The Court may, in exceptional circumstances, fix a date for the hearing of an appeal referred to in section 18 at any time after the time periods referred to in subsection (1).

208. (1) Subsection 18.22(1) of the said Act is repealed and the following substituted therefor:

Time for judgment

18.22 (1) The Court shall, other than in exceptional circumstances, render judgment on an appeal referred to in section 18 not later than ninety days after the day on which the hearing is concluded.

(2) Subsection 18.22(3) of the said Act is repealed and the following substituted therefor:

Copy of decision

(3) On the disposition of an appeal referred to in section 18, the Registrar shall forward, by registered mail, a copy of the decision and written reasons, if any, given therefor to the Minister of National Revenue and each party to the appeal.

209. (1) All that portion of subsection 18.29(1) of the said Act preceding paragraph (*a*) thereof is repealed and the following substituted therefor:

Other applications

18.29 (1) The provisions of sections 18.14 and 18.15, paragraph 18.18(1)(*a*), section 18.19, subsection 18.22(3) and sections 18.23 and 18.24 apply, with such modifications as the circumstances require, in respect of appeals arising under

(2) Paragraph 18.29(1)(*b*) of the said Act is repealed and the following substituted therefor:

(*b*) Parts III and VII of the *Unemployment Insurance Act*;

(3) Subsection 18.29(3) of the said Act is repealed and the following substituted therefor:

Extensions of time

(3) The provisions referred to in subsection (1) also apply, with such modifications as the circumstances require, in respect of applications for extensions of time under section 166.2 or 167 of the *Income Tax Act* or section 304 or 305 of the *Excise Tax Act*.

210. Section 18.3003 of the said Act is repealed and the following substituted therefor:

Time limit for reply to notice of appeal

18.3003 (1) Subject to subsection (2), the Minister of National Revenue shall file a reply to the notice of appeal referred to in section 18.3001 within sixty days after the day the Registry of the Court transmits to that Minister the notice of appeal, unless the person who has brought the appeal consents, before or after the sixty day period has elapsed, to the filing of that reply after the expiration of those sixty days or the Court allows the Minister, on application made before or after the expiration of those sixty days, to file the reply after that period.

Where reply not filed in time

(2) The Minister of National Revenue may file a reply to a notice of appeal after the period of time referred to in subsection (1) and, where the Minister does not file the reply within the sixty day period or within the extension of time consented by the person who has brought the appeal or granted by the Court, the allegations of fact contained in the notice of appeal are presumed to be true for the purposes of the appeal.

211. Sections 18.3005 and 18.3006 of the said Act are repealed and the following substituted therefor:

Time for hearing

18.3005 (1) Subject to subsection (2), the Court shall fix a date for the hearing of an appeal referred to in section 18.3001 that is not later than one hundred and eighty days or, where the Court is of the opinion that it would be impracticable in all the circumstances to fix a date for the hearing of the appeal within that time period, three hundred and sixty-five days after the last day on which the Minister of National Revenue must file a reply to the notice of appeal pursuant to subsection 18.3003(1).

Exceptional circumstances

(2) The Court may, in exceptional circumstances, fix a date for the hearing of an appeal referred to in section 18.3001 at any time after the time periods referred to in subsection (1).

212. Section 18.301 of the said Act is repealed and the following substituted therefor:

Interest accruing

18.301 For the purpose of calculating the amount in dispute in an appeal, no account shall be taken of any interest that accrues after the date of the notice of assessment that is the subject-matter of the appeal.

Provisions to apply

18.302 The provisions of sections 18.14 and 18.15, subsections 18.16(5) and 18.17(2) and sections 18.19 to 18.24 and 18.28 apply, with such modifications as the circumstances require, in respect of appeals referred to in section 18.3001.

213. Subsection 20(1.1) of the said Act is amended by adding thereto, immediately after paragraph (*h*) thereof, the following paragraph:

(*h*.1) prescribing, for the purpose of subsection 28(1) of the *Canada Pension Plan* or 70(1) of the *Unemployment Insurance Act*, when a determination by, or a decision on an appeal to, the Minister of National Revenue under section 27 of the *Canada Pension Plan* or 61 of the *Unemployment Insurance Act*, as the case may be, is communicated to a person;

(2) Paragraph 20(1.1)(*j*) of the said Act is repealed and the following substituted therefor:

(*j*) for awarding and regulating costs in the Court in favour of or against the Crown as well as other parties, for authorizing the refusal of costs to an appellant who, in circumstances in which the appellant could make an election under section 18, does not make such an election.

PART VIII

UNEMPLOYMENT INSURANCE ACT

214. Section 70 of the *Unemployment Insurance Act* is amended by adding thereto, immediately after subsection (1) thereof, the following subsection:

Communication of determination or decision

(1.1) For the purpose of subsection (1), the determination of the time at which a decision on an appeal to, or determination by, the Minister under section 61 is communicated to the Commission or a person shall be made in accordance with the rule, if any, made under paragraph 20(1.1)(*h*.1) of the *Tax Court of Canada Act*.

PART IX

AN ACT TO AMEND THE EXCISE TAX ACT, THE CRIMINAL CODE, THE CUSTOMS ACT, THE CUSTOMS TARIFF, THE EXCISE ACT, THE INCOME TAX ACT, THE STATISTICS ACT AND THE TAX COURT OF CANADA ACT

215. (1) Paragraph 12(2)(*a*) of *An Act to amend the Excise Tax Act, the Criminal Code, the Customs Act, the Customs Tariff, the Excise Act, the Income Tax Act, the Statistics Act and the Tax Court of Canada Act*, being chapter 45 of the Statutes of Canada, 1990, is amended by striking out the word "and" at the end of subparagraph (iv) thereof and adding thereto the following subparagraphs:

(vi) any supply of real property by way of lease, licence or similar arrangement all of the consideration for which becomes due after 1990 and is not paid before 1991, and

(vii) any supply of real property by way of lease, licence or similar arrangement part of the consideration for which becomes due after 1990 and is not paid before 1991, except that no tax is payable under Part IX of the said Act (other than by reason of Division IX of that Part) in respect of any part of the consideration that becomes due or is paid before 1991;

(2) Paragraph 12(2)(*b*) of the French version of the said Act is repealed and the following substituted therefor:

b) aux marchandises faisant l'objet après 1990 d'une déclaration en détail ou provisoire aux termes des paragraphes 32(1), (2) ou (5) de la *Loi sur les douanes*;

(3) Subsections (1) and (2) shall be deemed to have come into force on December 17, 1990.

SCHEDULE I
(Section 190)

1. The word "person" is substituted for the word "registrant", with such grammatical modifications as the circumstances require, wherever the latter word occurs in the following provisions:

(*a*) subsections 225(1) to (3);

(*b*) subsections 228(1) to (3); and

(*c*) subsections 229(1) to (3).

SCHEDULE II
(Section 191)

1. The expression « à titre résidentiel ou d'hébergement » is substituted for the expression « à titre résidentiel ou de pension » wherever the latter expression occurs and, in particular in the following provisions, with such modifications as the circumstances require:

(*a*) paragraphs (*a*), (*b*), (*c*), and (*d*) of the definition "habitation" in subsection 123(1);

(*b*) the definition « logement provisoire » in subsection 123(1);

(*c*) paragraph 190(1)(*b*);

(*d*) paragraph 191(7)(*a*); and

(*e*) subparagraph 254(2)(*g*)(ii).